TRAFFICKING AND PROSTITUTION RECONSIDERED

New Perspectives on Migration, Sex Work, and Human Rights

SECOND EDITION

edited by
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with
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Introduction

Abolitionism, Criminal Justice, and Transnational Feminism
Twenty-first-century Perspectives on Human Trafficking

Kamala Kempadoo

A belief about human trafficking as a contemporary global problem made its way into public consciousness at the start of the twenty-first century, pressed mainly by governments and feminists. It has since become sedimented in everyday life and is regularly broadcast in the media, yet the problem it points to is not new and has been a concern of Western nations since the mid-nineteenth century. At the turn of the twenty-first century, human trafficking was identified by the United Nations as a transnational crime, and was cast by political leaders, alongside terrorism and drug trafficking, as one of the three “evils” to haunt the globe. Beliefs about human trafficking have also created a veritable anti-trafficking industry as well as a set of durable narratives. These narratives have informed law enforcement efforts to control immigration and transnational organized crime, state policies and interventions to closely survey and regulate sex industries, and an array of social work and other activities aimed at undocumented migrants, sex workers, and bonded laborers. Indeed, by 2003, over 900 entities worldwide, including nongovernmental human rights, women’s rights, anti-violence, sex-worker rights, and health-care organizations,
government organizations, international agencies, and university departments, drew from the narratives and were involved in combating human trafficking (Change 2003). This anti-trafficking activity has since deepened and expanded, with the academic world adding considerable weight and legitimacy to the various narratives. In 2010 alone, around 140 academic books and journal articles were published that explicitly dealt with the intersection of human trafficking and prostitution and many more appeared dealing with subjects such as “modern-day slavery,” organized crime, child prostitution, forced labor, and international labor migration. The number of publications over the span of the first decade of the twenty-first century is much vaster. Forensic nurses, HIV and other health specialists, social workers, pastors, sociologists, psychologists, criminologists, anthropologists, political scientists, and economists, as well as scholars in women’s, gender and sexuality studies, development studies, labor studies, migration studies, black slavery studies, and Latin American and Asian studies have all added their voices to what Emma Goldman coined a century ago as a “righteous cry” against human suffering (1911).

In reflection upon this explosion of interest during the first decade of the twenty-first century and upon what it has managed to accomplish since the first edition of this book in 2005, some common themes continue and new ones emerge: First, there remain different and competing narratives about human trafficking, which now constitute quite distinct conceptual frameworks or paradigms, with little consensus or agreement among scholars, policy makers, and activists about the problem. Few new narratives have been added, but contestation over the existing ones appears to have become fiercer, due in part to academic interventions. Second, while descriptions and analyses of the perceived problem have become considerably more sophisticated, with expanded areas of social life being implicated, there is a surprising lack of any theoretical breakthroughs since the start of the century. Rather, earlier perspectives are rehearsed, applied to specific national contexts and within new academic disciplines, and used to reveal different shades of the problem. This has led to a deepening of the various narratives but not to any significant shifts in paradigm. Third, while a conflation between human trafficking and prostitution underlies some narratives, “sex trafficking” has emerged as a term that many employ to speak to the nexus between two, and to point to that area that is considered one of the “most severe forms of trafficking.” Sex trafficking is now the metaphor par excellence for analysis of the degraded state of humanity in the twenty-first century and has become a central vehicle for academic critique of a variety of contemporary social relations of power at local and global levels. Nevertheless, the term is attached to a particular feminist narrative about violence to women and carries a specific meaning. Finally, much of what is debated in the name of a struggle against human rights violations still carries troubling consequences for many people.

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Around the world. In particular, the migrant woman in prostitution is taken up—explicitly or not—to express a growing unease with an array of social injustices, but her silence, especially that of women from the global South, is overwhelming. In the outpouring of outrage, condemnation, and claims to human rights, she is spoken for and represented, but rarely does she find voice. The migrant woman sex worker becomes the ground for competing claims and theories, silenced by not only the master narratives but also the Western gaze (Doczema 2001; Downe 2007; Mohanty 2003).

We tend to forget that the global South, specifically South and Southeast Asia, is the area of the world where the contemporary international interest in human trafficking originated, and that it is persons from the global South who are disproportionately represented in transnational migration flows in the twenty-first century. This book takes these starting points seriously. Views, experiences, and perspectives of women of the global South, especially Asia, frame this collection and are foregrounded throughout. It attempts to disrupt the dominant trend where white westerners—many feminists included—occupy most of the space in the debate and set the academic and political terms around which the debate takes place. The collection also presents ways in which human trafficking is conceptualized, defined, and made operational by people who have worked in the field for many years. It documents human trafficking as the movement, trade, and exploitation of labor under conditions of coercion and force, analyzed from the lives, agency, and rights of women and men who are involved in a variety of activities in a transnationalized world. It offers critical examinations of abolitionist and international governmental definitions of trafficking, while proposing alternatives for study, research, and intervention. The writings—by persons who advocate for the rights of migrants and sex workers, especially in and of the global South—shed light on everyday circumstances, popular discourses, national policies, and grassroots struggles for change. The essays and analyses link theory and praxis in ways that are often overlooked by researchers and academicians who have recently joined the anti-trafficking industry and who attempt to intervene in debates from their ivory towers or political platforms.

The contributions here draw from grounded research, activism, and debates that have taken place since the 1990s, focusing on people’s livelihood strategies and struggles for change under new forms of globalization, in which gender, race, ethnicity, sexuality, and citizenship are central organizing principles. The collection was initially inspired by workshops on feminist participatory action research in 2000 and 2001 held by the Global Alliance Against Traffic in Women (GAATW) in Thailand, at which research projects and perspectives on trafficking in a number of different countries were presented and discussed. All three editors of this collection were part of the workshops as resource persons and had some attachment to the GAATW organization at the time. The understanding that had developed
a critical stance toward the narratives on human trafficking that locate migrants and sex workers as victims, advocate a politics of rescue, or call for greater criminalization of human life. They all advance an approach to trafficking that supports the humanity, agency, rights, and perspectives of labor migrants and sex workers and seek to open up borders and spaces rather than tighten or foreclose them.

THE MAIN NARRATIVES

The genealogy of a discourse on human trafficking has been traced and retraced in a number of works such that it must by now be quite familiar to most academics and activists in the field and so will not be repeated here. Instead the history is linked to the production of a set of narratives that have become quite stable, are attached to different subject positions and different assumptions about or conceptualizations of the problem, and constitute quite distinct frameworks or paradigms. Three main frameworks—identified here as the abolitionist, the criminal justice, and the transnational feminist—are reviewed, in order to better locate this collection and to make visible the global politics of knowledge that is involved in twenty-first-century debates and activities. While three frameworks are identified and discussed below, it is important to keep in mind that they are not discreet and sometimes overlap or blend eclectically in various activities, analyses, or strategic alliances. Moreover, although it can be argued that a concern about human rights forms the common ground for all anti-trafficking work, notions about what constitutes human rights appear in the three frameworks in different ways. There may also be other narratives that fall outside this tripartite analytic, especially those that are specific to one particular locale or language, and not all three frameworks will be present or recognizable in every place. Nevertheless, a review of the literature in the field suggests that the three paradigms are primary ways in which trafficking is approached, defined, and combated globally in the twenty-first century, in countries as diverse as Thailand, Australia, Cambodia, Brazil, and the US, in regions such as the EU, and in international contexts.3

ANTI-MIGRATION, ANTI-PROSTITUTION BEGINNINGS

The idea about human trafficking has strong anti-migration, anti-prostitution foundations, and its emergence is generally located in concerns in Western Europe and North America about late-nineteenth/early-twentieth-century cross-border migrations by women. These migrations constituted part of the large-scale international relocations and displacements of
people that followed the abolition of slavery in the nineteenth century, and which accompanied the internationalization of waged labor embedded in the period of globalization between 1850 and 1914 (Stalker 2000; Tilly 2004). Predominantly poor and working-class men and women crossed borders, clandestinely or not, to find new futures, enduring systems of bonded labor and indentured servitude that positioned and maintained them as cheap, disposable labor forces. Women sought to independently move or were moved through organized channels—commonly as sexual and domestic partners, but also as workers in their own right—servicing and reproducing the migrant work force, sometimes obtaining new freedoms through non-marital sexual relations and work that could include prostitution (Guy 1991; Walkowitz 1980; White 1990). Nevertheless, narratives about the mobility and trade of women’s labor and bodies under nineteenth-century contract labor, indenture, and debt-bondage systems ignored the impacts of colonialism and demands of patriarchal, racialized capital, and linked the emergence of migrant women in prostitution to notions of “loose” sexual relations, degraded feminine sexuality and the immorality of migrant men. In the nineteenth-century narratives, women were often portrayed as coerced, deceived, lured, trapped, kidnapped, and forced into prostitution, explained by the “natural” sexual depravity and uncivilized character of (im)migrant communities. Consequently, as occurred for Chinese women in West Coast cities in the United States under the Page Act of 1875, in Canada during the latter part of the nineteenth century, and for Indian women under British colonial indenture systems in the Caribbean after the abolition of slavery, the women’s lives and movements were subjected to laws and policies that restricted or even banned their migration.⁸

The nineteenth-century narratives on gendered international migration patterns set the stage for what a number of scholars have identified as a racialized social panic about the “White Slave Trade.” The ever-growing number of women traveling abroad for work and new life opportunities caused great anxiety and suspicion among middle classes and elites, and even though a major concern was the arrival in the global North of men and women from Asia and other places in the global South, it produced ideologies about the entrapment and enslavement of, particularly, white, Western European and North American women in prostitution.⁹ The panic instilled in the European-American imagination a notion of the barbaric, uncivilized, non-Western Other who brutalized and violated white women, while serving to restrict all women’s mobility and sexual freedoms (Doezema 2000; Findlay 1999). Narratives about the white slave traffic came to dominate international attention around the subject of women’s international migration and mobility and led to a series of international debates and conventions in the early twentieth century, starting with the 1904 “International Agreement for the Suppression of the White Slave Traf-

fic.” The international agreement, which was initially formulated to halt “the procuring of women or girls for immoral purposes abroad,” gave rise to a plethora of nationally defined law enforcement and policing efforts to eradicate prostitution. It was a campaign to abolish the morally defined “social evil” of prostitution through control of women’s movements, and in effect exercised control over women’s sexuality. Moreover, as Emma Goldman—a staunch advocate of women’s sexual autonomy—noted, the anti-white slavery crusade that became synonymous with an anti-prostitution campaign was supported, if not led, by Western European and North American middle-class feminist reformists who sought to “save” their “fallen” sisters.⁹ The anti-prostitution feminist approach imparted an imperialist bourgeois logic to early anti-trafficking campaigns, containing a very particular script about women’s sexuality.

SEX TRAFFICKING AND CONTEMPORARY ABOLITIONISM

Between the two world wars in the twentieth century, the moral panic over women’s mobility and involvement in the sex trade appears to have subsided. In the post-World War II era, with the new surge of capitalist globalization and Western economies in recovery, male labor migration was often demanded for new and expanding industries in the global North, with women being pushed (back) into family-building arrangements and domesticity, their mobility and sexuality severely restricted to the home and nation. The containment of women’s sexuality to specific spheres was reinforced through the passing of the 1949 United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, which replaced the earlier international agreements on white slavery and which continued to take the abolition of prostitution as its main objective. Interest in the subject of trafficking was revitalized in the 1970s, highlighted in the first instance by feminists concerned with the social impacts of the reconstruction and development of the Southeast Asian region in the aftermath of the Vietnam War and the continued stationing and servicing of US military troops in the region. Sex tourism, mail-order bride arrangements, militarized prostitution, and coercions and violence in the movement of women from poorer to more affluent areas at home and abroad for work in leisure, relaxation, and sex industries were paramount in the early campaigns (ISIS-wicce 1990/91). “Sexual slavery” was claimed, from a radical feminist perspective, especially from within the US women’s movement, to be central to this understanding of trafficking, and it was taken to epitomize the very worst of patriarchal oppression and the greatest injury to women.¹⁰ The patriarchal institution of prostitution—but also marriage and the family—was defined in this feminist approach as inherently violent and abusive for women, and those who participated in
such institutions were believed to be deceived victims of male power and privilege. The conceptualization of “woman-as-victim” that was deployed by the US women’s movement during the 1970s to demand recognition of the injustices of patriarchy, and which borrowed from political struggles and definitions in the 1960s that stressed black victimization at the hands of a white racist society, formed an integral part of the narrative (Barry 1984). Women’s freedom rested then on the complete abolition of those institutions that enslaved and victimized women, prostitution included.

While the idea of sexual slavery could immediately arouse horror and indignation through the invocation of the experience of black slavery, and allied comfortably with liberal concerns and anxieties about human rights abuses under late-twentieth-century conditions, by 2000 it was exchanged for the term “sex trafficking.” Established through the US Trafficking in Persons Act to designate a “severe form of trafficking in persons,” the notion of sex trafficking was popularized through the advocacy and writings of feminist scholars and activists such as Janice Raymond and the US-based Coalition Against Trafficking in Women (CATW) (Hynes and Raymond 2002). The exchange of terms did not, however, change the paradigm, but enabled anti-prostitution analyses and sentiments to fully reinsert themselves into a discourse that, as Lin Chew points out in chapter four, was increasingly becoming defined as a labor migration issue. Since its appearance, the notion of sex trafficking has come to dominate this particular narrative on human trafficking, specifying the exploitation of (migrant) labor in the sex trade as intrinsically harmful to all women. Anti-trafficking campaigns designed within this perspective advocate the abolition of prostitution, a greater criminalization of various aspects of trafficking, and the “rescue” of young women and girls from international and national cross-border sex work. Migrant women and sex workers, as agents who may consciously and willingly cross borders in undocumented status in search of a livelihood or a better way of life, and/or who exchange sex as part of this process, are classified in this framework as “sex slaves” or “trafficked victims.”

Sex trafficking narratives in the twenty-first century differ little from the earlier white slavery and sexual slavery beliefs, despite the quite differing global conditions of their emergence. Similar to yesteryear, the narrative takes to heart the abolition of prostitution, and makes an appeal for an end of violence to women or, in contemporary terms, “gender-based violence,” from an approach in which certain acts or situations are considered always and inevitably oppressive to women, such as female genital surgery, veiling, or rape. Universality, as Wendy Hesford and Wendy Kozol point out in their discussion of twenty-first-century women’s human rights discourses, “provides the framework for understanding acts of violence and oppression against women within national and global contexts,” where it is considered that “some acts are so heinous that any-

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where and anytime we can recognize them as such” (2005, 16–17). The sex trafficking approach does not operate independently, but has developed in conversation with, or has drawn its power from, other movements and narratives. Building from the white slavery and sexual slavery narratives, it too depends upon the history of black people in the Americas to speak about conditions of forced labor, and similarly reproduces the uneasy, often exploitative, historical relationship between white feminist and black emancipation movements. In the following chapters Josephine Ho and Melissa Ditmore point out other reliances and alliances in, respectively, Taiwan and the US. Both authors describe the meeting ground around the issue of “sex trafficking” between liberal and radical feminists on the one hand and neconservative governments and Christian fundamentalists on the other, which in both countries has led to demands to curb women’s struggles for sexual self-determination and autonomy. The marriage of twenty-first-century US feminist ideas about sex trafficking to neoliberal abolitionist formulations about “modern-day slavery” adds to this picture. The modern-day antislavery approach dwells on the abolition of institutions and conditions of force and violence that enslave humans, prostitution being identified as one of the main institutions that violates women and girls and restricts freedom. A defense of a notion of universal human rights stands front and center in the work of the “modern-day slavery” abolitionists. Defining the alliance as “contemporary abolitionism,” Elizabeth Bernstein describes it as “the growing cadre of evangelical Christian and secular feminist humanitarian projects that have emerged to reclassify all or certain forms of sexual labor as ‘slavery,’ to press for laws that punish the individuals who are deemed responsible for this captivity, and to vigorously pursue sex workers’ rescue” (2007, 129). The movement appeals to a particular morality about how sexuality should be expressed, about who has a right to citizenship, and about who may have access to the benefits and wealth accrued from capitalist exploitation of the globe. Sex trafficking abolitionism claims a moral high ground and mobilizes a universalizing concept of human rights, and the narrative finds easy resonance in neoliberal feminisms worldwide, as well as in humanitarian projects that are implemented in a variety of contexts.
humanitarian values and discourses of democracy worldwide. In many countries extensive anti-trafficking units patrol the borders and streets and conduct raids on sex industries, searching for undocumented migrants, all in the name of protecting humanity from the “evil” of “sex trafficking.” Moreover, in countries such as the US, the intense focus on sex industries for delivering victims is strengthened by the definition of all inter-state movement for sex work as trafficking, and leads to a fixation on the lives and activities of national sex workers. Denise Brennan, in her research on forced labor, concludes that the reorientation to the domestic sphere that has taken place through US law and policy has led to a growing lack of attention for hyperexploitation and forced labor in sectors of the economy and labor markets that are not attached to sex industries, an intensification of interest in underage prostitution, as well as an inflated estimate of the number of trafficked persons (2008). Anti-trafficking in this approach appears completely synonymous with legal efforts to curb immigration and prostitution, once again limiting the mobility of migrant women workers. In the UK and other parts of Europe, the attention paid to “child sex trafficking,” which covers any minor in prostitution, accompanies the anti-immigration thrust of anti-trafficking policies and activities, giving rise to a racialized panic around the “sexual grooming” of white girls by immigrant men. On both sides of the Atlantic, the original “white slave” narrative is reinstated in full glory and, as with its earlier incarnation, even while the “sex slaves” are of various ethnic and national descents, it is the image of the ruin of the (white) national body that is invoked. This contemporary white slave narrative in the global North maps almost seamlessly onto the intensely nationalistic, anti-prostitution, child protection governance models that have been erected to regulate, police, and discipline feminine sexuality in other parts of the globe. The Criminal Justice Approach

At the turn of this century a shift in the global governance regimes around human trafficking emerged through the introduction of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which replaced the 1949 Convention, and which was attached to the UN Convention on Transnational Organized Crime. Thus, whereas the early-twentieth-century approach primarily focused on prostitution, by 2000 trafficking was subsumed under the heading of international criminal activity. The trafficking of persons was also located as akin to the trafficking of drugs and weapons and defined as being of almost equal magnitude, taking place in a range of industries, only one of which is the sex industry. Anti-trafficking in this framework was made synonymous with a war on international crime and the prosecution of those who moved or employed persons, weapons, or drugs in defiance or by circumvention of legal boundaries and borders. The understanding that human trafficking was a criminal activity—whether as organized gang activity or as the “illegal” movement and employment of people—placed greater emphasis on immigration and border controls and on detecting underground activities than on prostitution. It is fundamentally a criminal justice approach that lends authority to international law and national efforts for the criminal prosecution of traffickers (Smith 2010). In this framework, protection of the nation-state against incursions that might unsettle or disrupt its security is paramount (Schaeffer-Grabiel 2010). The UN framework nevertheless also continues to criminalize the “exploitation of the prostitution of others” when that involves cross-border and forced activities, yet does not criminalize all prostitution, to allow for differences in national legislation on the issue.

The legal approach of the UN Protocol to human trafficking is lodged in a criminal justice framework framed within international law that assumes human rights to be transhistorical or “natural,” yet which translates not into the promotion of universal rights, but, as various legal scholars point out, into the universalization of the liberal Western legal tradition. This rights discourse draws from a paradigm that was originally constructed around distinctions between “civilized” and “non-civilized” nations, emboldening a civilizing mission that is considered to be still present in the neoliberal international legal regime into which is encoded the main governing concepts and categories, such as modernity, progress, development, emancipation, and rights. Moreover, as has been repeatedly pointed out, this “international” human rights discourse derives from a system of state sovereignty through which claims to rights are made on national citizenship criteria, excluding “non-citizens” such as refugees and undocumented migrants who are positioned as having no rights and who “are no longer even recognized or treated as humans.” The legal tradition produces a “reluctance” of governments to embrace a human rights approach to human trafficking and supports a prioritization of the prosecution of criminals “over the protection of the human rights of those it defines as ‘trafficked victims’” (Gallagher 2010; Smith 2010)—a tension that is also identified as “the gap between the founding principles and real practices of liberal democratic states” (O’Connell Davidson 2010, 258).

The international legal/criminal justice framework is echoed in a variety of national and regional policies, laws, and initiatives that have been adopted by governments around the world and signal growing attention by the international political community and national governments to issues of unregulated migration flows and underground profitable, cross-border activities through law enforcement. As well, a variety of international agencies such as the International Migration Organization (IOM) have taken up the criminal justice approach, mostly focusing on the
management of "irregular" international migration flows. Strengthening this approach are analyses by criminologists and legal scholars, who in recent years have vigorously taken up the issue of human trafficking as a law and order problem, and who often call for more legislation, increased policing and surveillance, a greater focus on clients, traffickers or criminal networks, or more assistance for "trafficked victims." Some have framed the discussion in terms of the securitization of the nation-state or of human rights (Friesendorf 2009). Others critically relate the development of a criminal justice approach to the reorganization of citizenship, particularly in the European Union (Andrijašević 2010).

Some national laws such as the US Trafficking Victims Protection Act (TVPA) have folded the sex trafficking and criminal justice paradigms into one, and some governments have attempted to impress this conflation onto others. As Melissa Ditmore details in her chapter here about the construction of the UN Protocol, US abolitionists fought hard to insert their anti-prostitution framework into the international arena. Although only partially successful at the UN level, they are considered to have been more successful at the national level due to the conservative political climate, backed up by a powerful media. The criminalization of prostitution is one outcome in the US legal context that is enforced through its annual international anti-trafficking reporting system as well through its international aid and development policies. In the EU and South Asia, a trend toward the equation of trafficking with prostitution in government laws and policies is also discernible.

"Third World" Feminist and Sex Workers Rights Alliances

In the 1990s a feminist shift away from a sexual slavery perspective became more audible and visible, grounded in grassroots activities and action research projects with "trafficked women," particularly in and from the global South. Initially articulated through collaborations between certain "Third World" feminists and sex workers' rights activists, it offered nuanced and different analyses, and indicated that although many women were indeed coerced and violated in the global sex trade, their situations were in many ways similar to those of other migrant women who sought to make a livelihood for themselves and their families in a world shaped by unequal relations of power around various axes. Taking into account such new approaches and understandings of the subject, the UN Special Rapporteur on Violence against Women, Radhika Coomaraswamy, commissioned a worldwide research project on trafficking in 1996 to reestablish the parameters of the problem. The report marked an important shift in international definitions of trafficking, as Lin Chew describes in her essay here, culminating in advice by the Special Rapporteur to the United Na-

tions to delink processes of recruitment and transportation under coercion from the sex trade; that is, to conceptually separate the traffic of women from prostitution. Moreover, prostitution was defined as a legitimate form of work, inspired heavily by the global sex workers' rights movement and claims by migrant women in sex industries as well as by analyses of women's labor in "Third World" non-Western, postcolonial contexts (Kempadoo and Doezeza 1998; Truong 1990; Wijers and Lap-Chew 1997). "Trafficking of women" was commonly seen to be shaped by hegemonic and local patriarchies, globalized capitalism, and the widening gaps in income and wealth, as well as by reconfigurations of empire under late-twentieth-century globalization that reinscribed international hierarchies around notions of racial, religious, and national difference. From a perspective that combined analyses of sexual labor and gendered migration, the global sex trade was defined as one, but not the only, site in which human trafficking could be located. Sectors that required unskilled or semi-skilled non-sexual labor, such as domestic service and manufacturing, as well as the racialization and feminization of the global work force and migration processes produced through the globalization of capitalism, became relevant to the analysis. The redefinition rested upon an understanding of the imbrication of force and violence in conditions and processes in which poor, predominantly brown and black, women were involved in the search for social and economic security in the new world order. Taking migrant women and sex workers as agents in their own right, with complex identities and subjectivities, was a critical dimension of the equation. This definition of human trafficking continues to inform many analyses and research by, on, and about women migrants and sex workers, especially in and of the global South, and continues to underpin the GAATW work.

Even while it is overshadowed by the criminal justice and sex trafficking abolitionist paradigms, and in some places is almost invisible, this third perspective that threads through this collection of essays is distinct. Due in part to the sustained claim of prostitution as "work" or sexual labor, made by national and international prostitutes' rights groups, and combining with feminist analyses of international migration, a central focus of the approach is on racialized gendered labor migrations and working conditions in multiple sectors and sites. Injustices and violence to women are taken to be widespread, created or exacerbated by UN, governmental, and Western humanitarian anti-trafficking initiatives (Hua and Ray 2010). The critique of international and local state discourses on trafficking, which follows from such analysis, shares a common interest in a new agenda for humanity that reverberates in perspectives articulated by political and social movements that emerge from "the grassroots," "the subaltern," or "the multitude." A common concern among such scholars and activists is that contemporary abolitionist, as well as criminal
justice, frameworks, support neoliberal economic and political interests of major multilateral agencies and national governments, rather than those of the world’s working and poor people. Current global economic policies calling for free trade and unqualified access by large transnational corporations to an unlimited supply of natural resources and raw materials, it is argued, guarantee, and defend, the rights of socially powerful elites—the propertyed, managerial, cosmopolitan, and professional classes—while they limit the access, movement, and rights of the dispossessed and the economically weak and powerless. In this arrangement, a continual regulation of the supply of cheap, flexible wage-labor is paramount, with immigration laws and policies playing a critical role in controlling flows of labor.

Although dimensions of the third framework are echoed and expanded in various ways, the fuller articulations of the perspective emerge from an explicit grounding in the lives and subjectivities, struggles, and collective action of migrant and sex-working women. Experiences of migrant women and sex workers thus form the substance for the critique of the dominant paradigms and narratives on human trafficking, while also providing new categories, concepts, or different ways of approaching the problem. This framework contains then a methodology for constructing alternate discourses on sexuality, prostitution, and trafficking, and more generally on human rights and women’s liberation. The methodology is located within a longer-standing principle of research that relies upon participatory action, “listening to,” collaboration, or “partnership with” the marginalized, whose lives are the subject of social research and theorizing. In a discussion of the significance of participatory methodologies for exploring counter-discourses, researchers in the UK note that “sex worker’s rights, unionization, advocacy and research that evidences the complexity of women’s lived experience not only challenges dominant discourses but also creates space for discussions to take place around inclusion, citizenship and policy change” (O’Neill et al. 2008, 88–89). A feminist participatory action research (FPAR) approach is also central to the GAATW work, as exemplified in the chapters here by Jan Boontinand and Rebecca Napier-Moore. For some scholars and activists, being attentive to “non-Western” and migrant sex workers’ definitions of their own situation enables us to see past or through existing (Western) categories and to rethink some of the core concepts within the trafficking–prostitution debate. Laura Agustin for example concludes, “The most interesting new conceptualization comes from the Durbar Mahila Samanwaya Committee [a sex workers’ organization] of Kolkata, West Bengal, India” (2008, 83). In other instances, sex workers’ own experiences and definitions of their lives and activities are used to interrogate the concept of work, exposing the limitations in the common Western language of freedom (Day 2010). Rutvica Andrijašević and others note that a claim to “the right to hold rights” that was a centerpiece for sex workers in the EU was mobilized around their collective experience and understanding of exclusion and marginalization from instituted human rights for European citizens, offering a possibility for the expansion of the notion of citizenship and human rights (Andrijašević et al. 2010). Similarly, in an ethnography among sex workers in Sonagachi India, women’s conceptions and views are mobilized to illuminate the existence of complex rule networks, which include formal law “in constant interaction with several other legal orders including social norms, customs, community based dispute resolution mechanisms, social practices, and market structures” as well as conditions of “illegality” (Kotiswaran 2008, 584). Limitations of the dominant legal frameworks and discourses are thus brought into view through this close engagement with (migrant) sex workers, predominantly of non-Western origin, and it is through careful attention to their understandings, struggles, and perspectives that foundations are laid for redefinitions and alternative views.

The third perspective also stands in conversation with a discourse on human rights, albeit in ways that differ from the other two paradigms. It contests the conventional, liberal discourse of the universality of human rights, even while deploying a claim to rights. Many feminists have long raised the point that the Western liberal discourse of human rights has often worked in contradictory ways for the non-Western women it is supposed to liberate. For example, American, Canadian, or European campaigns under the banner of human rights to “save Afghan women” or rescue African women from female genital mutilation have been exposed not only for the disrespect they hold for the women involved, but for the power they hold to co-authorize new imperialist foreign policy and interventions.²

In examinations of the ways in which the mobilization of a universalizing discourse on human rights carries many dangers for women, including “trafficked” women in the sex trade, some argue for contextually appropriate concepts and strategies of cultural advocacy that then enable another form of human rights activism (Hestford and Kozol 2005; Collins et al. 2011). Jyoti Sanghera, in articulating the GAATW position, notes that “a sharper analytical perspective needs to be employed which goes beyond the template prescribed by the UN standards and even the human rights discourse,” arguing that at the very core of the definition of rights in this framework must be “the voice and agency of trafficked and migrant women,” where it is acknowledged that the women “are the architects of their own future and know best what kind of a structure they would like to live in” (2007, viii). Recognizing that the subaltern subject, including the transnational migrant and sex worker, “provides a normative challenge to the subject of liberal rights discourse,” feminist legal scholar Ratna Kapur argues for a re-envisioning of the subject of women’s human rights discourse from an acceptance of the value of rights without the celebration of colonial and postcolonial processes that have justified or
continue to justify imperialist interventions (2005, 27, 135). Furthering these arguments, in a reflection upon new directions in feminism and human rights, Dana Collins et al. argue that “transnational feminist inquiry both brings to light, and works alongside, the longstanding tension between the universal and the particular in human rights debates by ‘re-engaging the local’ and by attending to the cultural and representational politics of human rights deployments” (2011, 308). This third framework thus locates the claim to “rights” within the specific discursive context in which collective struggles for recognition, citizenship, and justice take place, and which is seen not to flow automatically or linearly from a Western, individualistic human rights discourse but instead to derive from collective subjectivities, experiences, norms, and perspectives of the marginalized and oppressed.

However, within this third perspective we are also cautioned against “the treachery of authenticity” and of falling into the trap of constructing an essentialist unitary notion of the Other—the Third World woman, the migrant, or sex worker—who is valorized and represented as pure and uncontaminated, and who, in such a representation, is ultimately silenced. It recognizes that migrant women and sex workers are complicated subjects whose experiences and stories “challenge easy distinctions between innocent and knowing, between mere exploitation and severe abuse” (Chapakis 2003, 935; Parrenas Shimizu 2010). Migrant women and sex workers may then, for example, be victim and agent simultaneously, or at different stages in the process of migration, and are not simply represented as free individuals outside of wider contexts of structural oppression or coercion. Likewise, the perspective warns against dichotomizing the local and the global through essentialist configurations of the local “as the space of oppositional consciousness” and the global “as an oppressive network of dominant power structures.” Recognition of the complex and sometimes contradictory subjectivities, positionalities, and claims of migrants and sex workers is critical to this framework.

Accompanying the anti-essentialist stance is a self-reflexive practice that is common to researchers engaged in empirical fieldwork, but which is also relevant to other scholarly, activist, or policy work. From research on migrant sex workers in Barbados, Pamela Downe affirms the idea that we have to be conscious of the frame we employ and proposes that “we would do well to wrestle with it and to turn our analytical gaze to the questions we are attending to a particular story as we do” (2007, 570). Thus, she continues, “Despite the powerful grip of the compelling master narrative, it is clear that if we want to better understand how those involved in cross-border sex trades construct meaning in their lives and how they see themselves as healthy or unhealthy, safe, or vulnerable, we must try to make our engagement with this narrative as explicit as possible. In doing so, we can rewrite the dominant script so that the silences it creates are broken” (2007, 567). Such critical reflection on the researchers’ own frame

of reference, positionality, and engagement with the subject has been a strong tradition within subaltern, feminist, and postcolonial studies, and even while a difficult project to complete, has led some scholars to conclude that we must continue to be vigilant about our research practice through scrupulously “acknowledging complicity,” “unlearning dominant systems of knowledge and representation,” “learning to learn from below,” “establishing an ethical relationship with our research subjects,” and “working without guarantees.”35 From an examination of Canadian women in development work in Africa, Barbara Heron contends that this type of work, or “the performance of goodness” in international arenas, “is deeply about the making of the white bourgeois subjectivities at home and abroad,” impressing upon us that it is critical that northerners, especially white women drawn by a “helping imperative,” recognize and unpack their investments in such work (2007).

Reflexivity—on the relations of power we inhabit, the narratives we produce, or the silences we create or break—is a continuous theme in this third perspective. As Doezema notes in the conclusion of her book about global trafficking discourses, reflexivity may lead to “bringing to the forefront alternative ways of thinking about ‘sex work’ that have lingered at the margins of the movement and may enable the incorporation of settings and experiences that are difficult to fit within a ‘sex worker rights’ framework” (2010, 176). Attention to marginalized experiences, struggles, and lives may then illuminate the boundaries of certain categories and concepts, as well as the boundaries of law, sovereignty, citizenship, and human rights, engendering possibilities not just for shifting the debate but for an epistemological shift toward other ways of thinking about prostitution and trafficking. This third perspective might then, as Kapur writes, “provide that alternative and possibly transformative cosmology we are seeking to move towards” (2005, 136).

LIMITATIONS OF ABOLITIONIST AND CRIMINAL JUSTICE PARADIGMS

The sex trafficking abolitionist and criminal justice paradigms are the two that dominate the global debate, and they are the most widely taken up or critiqued by scholars and activists. A number of themes run through the critiques of these paradigms. For example, the criminalization of greater areas of social life that both demand is seen to fail to significantly reduce undocumented migration or the causes for cross-border movement. Instead, it changes some avenues for migration and for securing work in another place or country, and pushes many activities further underground. It creates, for example, what Phil Marshall and Susu Thatun describe in chapter three as a “push down—pop up” effect, where interventions serve to suppress trafficking in one geographical location or community and
cause it to resurface elsewhere. A displacement rather than an eradication of the problem takes place, and practices morph and mutate in unpredictable and untraceable ways. Some communities or groups may, then, be “saved” by anti-trafficking efforts, yet at the same time, new communities or younger generations are found to supply the demand for cheap services and labor. New and more sophisticated techniques for screening and apprehending border-crossers at official checkpoints furthermore compel “coyotes” or “carries” to find new avenues for their charges, and alternative entry points and modes of cross-border smuggling are tried. Sanghera observes in chapter one that new sites or venues are also found, as well as more repressive forms of confinement. In gallant rescue attempts—usually broadcast on television and the Internet, but also increasingly forming the substance of entire books—large sums of money may be handed over to secure the release of individual “slaves,” generating new sources of income and new business arrangements for small-time recruiters, people-smugglers, and employers (Kristof 2004). In addition, policies developed within a framework that stresses the tightening of immigration controls tend to empower anti-immigrant sentiments and xenophobic acts. Apart from the various examples in the following essays, right-wing, armed vigilante groups complement US state and federal forces’ efforts to deter and detain undocumented border-crossers (Cooper 2003).

Another striking effect that has been documented and commented upon widely is that while trafficked persons/migrants are designated “victims” under various policies and laws, they are more commonly treated as illegal immigrants and criminals, and as threats to national security. Access to documented status and residency in the destination country—that is easily afforded to categories of highly skilled workers, technocrats, business-élites, and those with enough financial clout—is not extended to the working class, and growing numbers of poor immigrants add to the already large number of persons who are processed through criminal justice systems, with increasing numbers being detained or incarcerated for non-violent crimes (Bhattacharjee 2002; Lindsay 2002; Dewey 2008). From the vantage point of migrants who are classified as trafficked, visas created for them may appear as a “stay of deportation,” as they simply allow the individual to remain in the destination country for as long as required for criminal proceedings against the persons who brought them into the country for work (Pearson 2002; Gallagher and Pearson 2010). Assistance out of forced labor situations then is conditional upon cooperation with law enforcement officials (Dotteridge 2007).

As is also well documented, including by several authors in this book, along with the primary ways in which trafficked women, men, girls, and boys are dealt with in destination countries through arrest and detention measures, once “rescued” they are most commonly deported under the charge of being undocumented or “illegal.” Once home they then face the shame and humiliation that accompanies deportee status. In addition, there is a fear that the family or home community is made aware of a woman’s involvement in criminalized, stigmatized activities, such as prostitution. John Frederick also shows here in chapter seven that in Nepal, young “rescued” women who have been returned home from brothels in India are commonly institutionalized in safe houses or special homes indefinitely, as they no longer fit the model of the “good Nepali woman” and are left with inadequate psychological and social care to enable them to settle back into their home community or to reconstruct a life for themselves.

NGO involvement and efficacy in anti-trafficking work is also increasingly problematized. For example, Lin Chew in chapter four raises the question of whether the explosion of interest for trafficking among NGOs and other groups in the twenty-first century has to do with a real increase in the problem or with other interests, particularly international funding. Evaluations of anti-trafficking campaigns go a long way in addressing this question. In an extensive review of institutional responses to sex trafficking in Armenia, Bosnia, and India, Susan Dewey concludes that the construct of the trafficked woman is “hollow,” “an empty figure to be filled up with the assumptions of relatively privileged staff members at most international organizations, governments and nongovernmental organizations,” with NGOs becoming “little more than hollow fronts for donor funding” (2008, 164). Similarly in the US, abolitionist NGOs and faith-based organizations have been found to be “amply rewarded” by the government (Foerster 2009, 165). Moreover, the dependency on external funding for anti-trafficking activities by NGOs makes their efforts often unsustainable, ad hoc, and quite ineffective (Samarasinghe and Burton 2007). Economic rewards and interests appear then to profoundly shape much anti-trafficking NGO and institutionalized activity, often superseding the humanitarian dimensions of the work.

In response to the disregard for migrant women’s lives, their rights to mobility, and rights to livelihood that underpins or results from dominant anti-trafficking campaigns, several authors here argue that state policies and interventions need to create systems that allow for “safe migration” in order that violation and injustices in processes of migration be eliminated, and the right to freedom of movement be guaranteed for all. As the majority of the authors in this collection point out, efforts to repress migration, to keep people at home, or to “push them back,” often do greater harm than good, and run counter to the interests of the migrant person. Migrant women and men who are deported for infringing upon national immigration laws (even though they may be “rescued”) are generally forced through state anti-trafficking interventions to return to the same conditions that initially prompted their move. Global structural inequalities in the distribution of wealth and in access to education,
employment, healthcare, and social security; militarized conflicts and occupations; disposessions from the land and environmental disasters; and gender-based or religious violence and ethnic conflicts, all of which underlie the movement of women into particular labor market sectors, are not eradicated in the sex trafficking abolitionist or criminal justice approaches to trafficking. Conditions at home remain for the most part unchanged. Returned or deported migrants may then make new attempts to leave, and are once again made vulnerable to smuggling, deception, or coercion in the migration process, debt-bondage, and/or violence from employers, law enforcement officials, and clients. Thus, even though the rescue and assistance of “trafficked victims” is advocated in the dominant narratives, it has come to the attention of many involved with migrants and marginalized communities, and especially migrant sex workers, that human rights violations have not abated under anti-trafficking policies and legislation. The wider economic and political global conditions thus remain pressing issues, which, according to authors here, are crucial issues for the international community to take up.

In addition to the violence that the anti-trafficking fervor promotes, the two dominant approaches primarily identify foreign gangs and “source” countries as the main culprits, criminals, and beneficiaries in the trafficking business. Given that the majority of “destination” countries are claimed to be postindustrial countries in Western and Northern Europe and North America, as well as the industrialized or militarized centers in Asia, such as Japan, Taiwan, and South Korea, this creates international divides around nationality, ethnicity, and race. And while it has been established that most of the undocumented migration occurs not for underground sex industries run by criminal elements, but for sweatshops, farming, service, and domestic work that are attached to formal sectors of the economy, state and public attention is quickly drawn to groups of middle-persons who are held up as the “real” menaces—recruiting agents and those who assist others to move without legal documents or money—who are commonly identified as greedy, immoral men from or of the global South and postsocialist states (O’Neill 1999; Surtees 2005). Media and research reports on trafficking worldwide often reproduce this focus. The main profiteers in the dominant narratives are racialized, ethnic Others, with the victims poor brown or black women from Asia, Africa, and Latin America, or young women from Eastern Europe and Russia.

The dominant anti-trafficking paradigms also ignore to a large extent the enmeshment of legal sectors in organized crime. As pointed out in studies of twenty-first-century transnational organized crime, one of the more obdurate characteristics of organized crime is that established (legalized) and underground (criminalized) sectors stand in a symbiotic relationship (Beare 2003). Without assistance from “legitimate” businessmen, lawyers, police and other law enforcement officials, politicians, and CEOs of large corporations, organized crime is largely unsuccessful. Yet, an elision of this relationship has occurred, and instead anti-trafficking campaigns are promoted through a politics that rests upon the prosecution and punishment of those considered to be lawless and ruthless. The crediting of trafficking to the foreign “Other,” who is configured as a threat to Western societies and civilization, serves thus as a scare tactic to corral racist, nationalist sentiments and to obfuscate the interaction between the state, corporate capital, and underground sectors. To some researchers and policy makers this problem in the dominant paradigms can be corrected through attention for “the demand side”—clients of sex workers, such as advocated in the “Nordic model”—as well as for police and state military complicity, and through investigations into investment and gains made by established “legal” social and political institutions.

Many of the claims made about sex or human trafficking are based on sensationalist reports, hyperbole, and conceptual confusions. Even those who wish to incite moral indignation through use of the trope of slavery indicate that debt-bondage, indentureship, and hyperexploitative contractual arrangements are the most common forms of contemporary forced labor practices. Slaves are said to make up the smallest proportion of those who are smuggled or cross borders in undocumented status, and/or engaged in forced labor and debt-bondage. A distinction between different labor regimes is important to recognize, for whereas slavery is premised on property relations—the permanent and legal ownership of one human being by another and the power invested in the owner to command that property at will—debt-bondage, indentureship, and forced labor are lodged in contractual, wage relations and principles of free labor power and its market exchange value. Examinations of contract labor and debt-bondage conditions of the nineteenth and early twentieth centuries, including the indentureship of people from India, China, and Indonesia, as well as Britain and Portugal, on plantations in the Americas could, for example, tell us a great deal about capitalist development since the abolition of slavery, its need for cheap, disposable labor, and the systems it erects to ensure a steady supply of labor. Such examinations could produce historically informed and less moralistic analyses of forced labor and processes of migration that have taken place since the mid-nineteenth century (Sandy 2010).

Despite efforts to prove human trafficking, it is generally acknowledged that claims about the problem are largely unsubstantiated. Nevertheless, the lack of evidence does not deter anti-trafficking campaigns. The US State Department effort stands as an exemplar on this score. The campaign revolves around an annual evaluation and ranking of national interventions to combat trafficking into three tiers, according to standards set by the US State Department. Countries that do not comply with the US standards are placed in the lowest tier and are subject to sanctions.
However, since its inception, the system has been plagued by a lack of evidence, unsystematic data collection, and a lack of analysis. This glaring tendency has led to conclusions that some nations are punished "only on the basis of insufficient evidence." That Tier 3 is mostly composed of countries that the US considers to be unruly, undemocratic, and/or terrorist states, such as Cuba, Venezuela, North Korea, Burma, and Iran, most clearly illustrates the political intention of the ranking. Regarding this political character of the US ranking system, former UN anti-trafficking officer Anne Gallagher concludes from an extensive review of a decade of US reporting on trafficking:

The Reports are political creatures, produced through a political process and serving specific political ends ... it is naïve to expect that country narratives will always be able to maintain an objective distance from the two sharp ends of US foreign relations policy.... Political and ideological opponents of the USA may never be moved from Tier 3, no matter how much they try to conform to the TVPA minimum standards. (2010, 2)

As several of the authors here argue, analyses of immiseration, structural violence, and social injustice in the world today must be lodged in real, material conditions. Hyperbole, unsubstantiated claims, and sensationalism, while perhaps useful for rustling up indignation and moral condemnation about inhumane treatment and exploitation and for advancing particular national political agendas, can, and often do, lead to greater abuse and violations, even in the hands of well-meaning anti-trafficking policy makers and activists. And as Anderson, Sharma, and Wright also point out, the hyperbole masks the ways in which increasing exclusionary practices and contradictions that are central to the workings of the neo-liberal state not only affect migrants, but citizens as well. Thus, restrictive immigration policies, including anti-trafficking immigration controls, shore up "ideological, even fantastical, re-presentations of the 'nation,'" and not only serve to accord fewer migrants status that comes with rights but to rob citizens of civil liberties (Anderson, Sharma, and Wright 2009, 7).

ON MATTERS OF AGENCY

Evident in the criminal justice paradigm, and particularly emphasized in the sex trafficking abolitionism narrative, is the idea that those who are subject to trafficking are "victims." This designation has implications for the advancement of women's rights and freedoms, and connects to wider debates about the conceptualization of gender oppression. The notion of "victim" immediately captures the principle that women's subjugation and oppression is not of their own making, but rather a consequence of masculine power and male dominance. However, the objectifying dimensions of the definition and its ability to dismiss any conception of agency have also been recognized by feminist researchers and theorists. Thus in much contemporary transnational and other feminist theorizing the gender category "woman" is neither exclusively object nor subject, but seen to be constructed under variable conditions or systems of domination such as patriarchy, colonialism, racism, and imperialism, and to always include some notions of resistance, agency, subjectivity, and self-determination. "Woman" in the twenty-first century is a category in most feminist work that is constituted simultaneously as "victim" and "agent." However, the almost exclusive reliance on the notion of "victim" in dominant anti-trafficking paradigms ignores this trend, privileging external forces in the conceptualization of the trafficked person, and denying women any agency or subjectivity in the process (Swennen 2003).

Such a conceptualization sustains an image of women as pure, unblemished, and innocent prior to the trafficking act, as clean passive slates that are consequently imprinted and given character by and through the actions of "evil" men. Ditmore argues in this volume that the gendered distinction between, on the one hand, women as victims, and on the other, men as actors, is also acutely visible in the UN Protocols on trafficking and smuggling. Whereas the former primarily speaks about women and children, the latter refers most commonly to men. Women and children by definition are trafficked—kidnapped, transported against their will over borders, and held in inhumane conditions—due to their presumed innocence, purity, and inability to take action on their own behalf, while it is men who are thought to actively seek to be smuggled, and hence are viewed as implicated subjects.

The ability of the concept "victim" to rob the (feminized) individual of any notion of agency and subjectivity, and to ideologically locate the migrant woman or sex worker as helpless and pitiful, has strong implications for how change is imagined or taken up in policies and interventions. Victims, who by this definition are passive and child-like, are deemed incapable of undertaking any action, thus requiring "rescue" or "saving" from their circumstances by others who stand outside of the trafficking process and who, it is believed, "know best" (Skrobiszewski et al. 1997, 18). The construction of, and changes to, the trafficking myth in Nepal, discussed in chapter seven, illustrates how even the work of local well-intentioned nongovernmental organizations can fall into this trap, lending to the process of the objectification and further victimization, or even a retraumatization of women. Moreover, as has been repeatedly documented and observed, many so-called trafficked persons tend to define themselves not as "victims of trafficking" but as "migrant workers who have had some bad luck as a result of a bad decision." (Pearson 2002; GAATW 2007; Gal-
lagher and Pearson 2010). The term “trafficked victim” does not always generate recognition or self-identification, and may be counterproductive in everyday human rights and social justice work. Chapter 13 draws from participatory action research among “trafficked women” around the world underscores this limitation.

Migrant women’s and sex workers’ “victimhood” is thus used to mobilize anti-trafficking sympathy and to make humanitarian appeals, as well as to secure funds, increase policing and law enforcement, and to monitor borders, while their own subjectivity, decisions, and “choices” are denied legitimacy. A critique of the victim approach of much of the contemporary anti-trafficking narratives is an important aspect of this book. Many of the authors argue here that it is not prostitution per se that is harmful to women, but rather that under the ruse of anti-trafficking interventions, migrants’ and prostitutes’ rights to work, migrate, receive health-care, social benefits, and respect are violated. Moreover, even while diverse identifications are employed throughout this book, such as “trafficked persons,” “affected women,” “sex workers,” “undocumented migrants,” or “transnational migrant subjects,” it is a commitment to ending the exploitations, injuries, and injustices with these populations in mind that underwrites these essays.

CHANGES IN THE SECOND EDITION

This second edition, like the first, focuses on the ongoing re-articulation of the trafficking discourse that began through mainly feminist definitions since the mid-1990s. It continues to shift attention away from state drives for greater immigration control, global policing, and the criminalization of prostitution, and to foreground the needs, agency, struggles, and of migrant and sex working communities. The first three sections have undergone little revision or change, as the original texts represent developments, ideas, and data that continue to be pertinent to contemporary situations and debates. The original arguments and analyses are immensely helpful in demonstrating that very little that is theoretically innovative or substantively groundbreaking has been brought to the debate over the past decade, even while the field has expanded and a wealth of studies on trafficking now exists. Ratna Kapur’s chapter, “Cross-border Movements and the Law: Renegotiating the Boundaries of Difference,” has, however, been updated to address some of the more recent global initiatives, including recent UN and US laws and conventions. Her chapter provides, once again, a comprehensive critique of the dominant trafficking discourse through an examination of the workings of the global legal order and its implications for the transnational migrant subject.

Introduction: Abolitionism, Criminal Justice, and Transnational Feminism

A fourth section has been added to this new edition, which contains two new chapters. In chapter 13, the alliance that gave shape to the original edition reflects upon what has been accomplished over the past decade and half of anti-trafficking activity and sketches out future directions. Arguing that anti-trafficking work has become overspecialized and trapped within policy and NGO silos, Rebecca Napier-Moore, who writes on behalf of the GAATW, points out that much of the work is now inadequate for attending to the needs of “trafficked women.” She goes on to highlight aspects of recent GAATW feminist participatory action research that stitch back together those elements that have become virtually severed in the dominant, compartmentalized interventions, namely, migration, labor, and women’s rights. The chapter also describes how, through an alternative, holistic approach, women’s own understandings about identity, experiences, migration, and future prospects become visible and can lead to sustainable and meaningful grassroots change. The concluding chapter is a compilation of reflections, observations, notes, and ideas about the field of anti-trafficking by several of the contributing authors and editors of this book. It gives some insight into what has (not) been accomplished over the past decade, and ideas about what could be done in the field. A fundamental shift away from the dominant paradigms is, it would seem, still an imperative. Nevertheless, as with the first edition, we hope that in examining trafficking with respect for migrant and sex worker rights, agency, and humanity, this book continues to provide alternative ways of thinking about the subject and to offer insights that can inspire future theory, policy, and action.

NOTES

1. Jo Doezema (2010) refers to these and similar narratives as “myths” within a wider discourse of human trafficking.

2. In a review of the two dominant US discourses on trafficking Jennifer Musto notes, “while the ability to name and categorize human rights abuses like trafficking have grown more sophisticated, such naming practices have, to date, proven limited in translating modes of suffering into theoretical and political strategies that prevent their emergence” (2009, 286).

3. Recent data on legal international migration compiled by the UN state that “most legal migrants in the more developed regions [defined as Europe, North America, Australia, New Zealand, and Japan]. originate from the less developed regions [defined as Africa, Asia (excluding Japan), Latin America and the Caribbean, Melanesia, Micronesia, and Polynesia].” United Nations, Department of Economic and Social Affairs, Population Division (2009). International Migration, 2009 Worldfacts (United Nations publication, Sales No. E.09.XIII.8). Rachael Parreno also reminds us that “migrant women workers from the Philippines represent one of the largest labour migrant groups in the world today” (2006, 146).

4. At the time of the compilation of the first edition of this book Bandana Pattanak was research project coordinator, Jyoti Sanghara was a member of the GAATW board, and this author was a member of the GAATW working group on research methodology.

5. See for example, Sengrave (2009) on Thailand and Australia, Sandy (2007; 2010).

6. Anna-Louise Crago argues that a precursor to the twentieth-century discourse on human trafficking is lodged in the ideologies and laws that were constructed in the United States around Asian immigration. She notes that in West Coast American cities, it was widely believed that “Oriental” women were involved in prostitution due to the immoral nature of the immigrant populations. Consequently, efforts were made to curb the migration of the women and to prevent such “immorality” from further corrupting the nation. The first US act to explicitly address the issue was passed in 1870 and prohibited the importation of “Mongolian,” Chinese, and Japanese women. In 1875, the US Congress passed the Page Law which forbade the entry of prostitutes, felons, and Asian contract laborers into the United States and specifically prohibited immigration from “China, Japan or any Oriental country” for so-called lewd and immoral purposes. Crago observes, “Chinese (and more broadly, ‘Oriental’) immorality and depravity, as ‘proven’ by the presence of prostitution, were marshaled in support for the ‘Yellow Peril’ panic and the 1882 Chinese Exclusion Act in the United States, as well as similar laws in Canada, which cut off legal immigration to all but a tiny elite minority.” (Unpublished paper presented at the conference Mapping Insurgencies: Sex, Race, and Globalization, Committee on Lesbian, Gay, Bisexual, Transgender Studies, University of Arizona–Tucson, April 25–26, 2003). See also Binlaurth (2000), Reddock (1985), and Shepherd (2002) for accounts on the regulation of Indian women’s labor under indenture ships regimes in the Caribbean.


8. Emma Goldman was quick to point out that the trade in women was not merely about white women, but involved “yellow and black women” as well (“The Traffic in Women,” 1911).

9. For Emma Goldman’s views on prostitution, the trafficking of women, the women’s movement, and reformist morality, see her essays “The Traffic in Women,” “The Tragedy of Women’s Emancipation,” “Victims of Morality,” and “Woman Suffrage,” originally published in 1910 and 1913, reprinted in Shulman (1996). Judith Walkowitz was one of the first feminists in the late twentieth century to revisit the subject.

10. “Radical feminism” is used here following Alison Jaggers and others who classified the main feminist frameworks of the “second wave” according to their underlying assumptions about gender relations. Thus radical feminism refers to the framework that locates women’s oppression as caused by patriarchy, which is taken as a universal and primary form of domination.

11. Recent examples of this perspective are found in Hughes et al. (2007) and Hoffer (2010). Regarding this approach Halley et al. argue that there has been a “profound turn in American feminism to criminal/social control visions of law, traceable in feminist legal theory over the 1990s and persisting today” (2006, 342).

12. See for example Bales (1999), Skiriner (2008), and Kara (2009) as examples of the “modern-day slavery” approach, and O’Connell Davidson (2010) for a recent critique.

13. Chuang (2010) also traces this development using the notion of “neo-abolitionism” to refer to this coalition. Weitz and Ditmore (2008) refer to it as a modern-day “moral crusade.” See also Sayeed (2006).

14. Through careful ethnographic research and analysis, Bernstein (2010) locates the modern-day abolitionists at the meeting point of “militarized humanism” and “cancer feminism.”

15. This redefinition was made in the reauthorizations of the US TVPA in 2005 and 2008, in which all commercial sex acts were defined as trafficking. See for example, Weitz and Ditmore (2008).

16. In the flurry of attention around the publication of a report on child sex trafficking in the UK, and the claim that Asian men were sexually grooming young white English women, the authors of the report attempted to counter this racialized panic by pointing out that the majority of the women harmed were young women of color (“Warning of Racial Stereotyping over ‘Sexual Grooming’ Gangs,” Guardian Weekly, Jan. 14, 2011, p. 16). Likewise, despite the arrest of predominantly Asian men on suspicion of grooming young girls, the concern is said to be about “white, black and Asian children” (“Groom Gone” Guardian Weekly, Jan. 11, 2011, p. 15).

17. See also chapter 5 by Josephine Ho on shifts in the Taiwanese discourse.

18. Kapoor (2008, 34). See also Kapur for a critique of the Western liberal legal framework especially as it relates to women of the global South, and who argues that the law is taken “as an objective external neutral truth that props us into the future, providing stability to the societies in which it operates and steering us carefully along the path of maturity, development and civilization” (2005, 22).

19. Argie (1999, 21). See also Hua and Ray (2010) for an incisive critique of the ways in which the UN Protocol enables neoliberal, including “neo-universal feminism,” understandings of subjectivity, freedom, and human rights, and which locate certain transnational female bodies as always and already in need of rescue. In contrast, Veronica Hayes’ 2010 analysis of anti-trafficking debates around the Olympics and other world sports events is a typical example of scholarly work where a commitment to combating “sex trafficking” is tied to an uncritical adoption of the Western discourse on human rights.


21. See for example Alliance News 18, July 2012 for the full coverage of earlier plans and conventions such as the South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Asian Regional Initiative Against Trafficking (ARIAT) Regional Action Plan Against Trafficking in Persons, Especially Women and Children.


23. Scholars such as Leman and Janssens argue that “to combat human trafficking it is crucial to combat criminal networks in their entirety” (2008, 448). See also Surtees (2008), Goodey (2008), Gallagher and Holmes (2008), Farrel and Falzy (2009), Lebov (2010), Simeunovic-Patic and Copic (2010), and Perrin (2011).

24. In writing about the “moral crusade” of the abolitionist feminists, Weitz and Ditmore note that under the George W. Bush administration “antipornography gained tremendous influence over policymaking” to the extent that “abolitionists forces helped to transform the campaign against sex trafficking into an official government campaign against prostitution” (2008, 327). Schaefer-Gabriel (2010) provides an analysis of the role of the media in this process.

25. In this chapter in this volume documents some of the early history of this feminist movement. See also Bressi (1991), Skrebek (2007), and Wijers and Lap-Chew (1997).

26. The commissioned report was published as Wijers and Lap-Chew (1997).

27. Research on migrant women’s lives, such as Sassen (1998), Chang (2000), Louie (2001), Paternas (2001), and Ehrenreich and Hochschild (2002) provided important insights into conditions for “Third World” women in the global labor market.

28. In an earlier essay, I referred to this “alternative” perspective on trafficking as a “transnational feminism” approach (Kempadoo 2005). Transnational feminism I take to mean the body of analyses, methods, and activities that emerged from the convergence of distinct areas—cultural and postcolonial studies, Third World feminism, and women’s activism in the late 1990s. It is defined as a theory and practice within women’s studies.
and the women's movement that acts as an umbrella framework for a range of analyses and activities that self-consciously and critically address contemporary global material inequalities and relations of power, new flows and linkages in the global economy, and the ways in which gender is mediated by race, class, nationality, sexuality, and religion. It is located in a diverse set of social realities and struggles for and by women in very diverse conditions, from postmodernity to postcoloniality, yet takes the relations of domination and subordination that appear within and across these contexts as central for both analyzing and changing these conditions. (See also Kempadoo, *Recuperations and Re-visions: Theories and Practices in Transnational Feminism*, National Women's Studies Association: 22nd Annual Conference, Minneapolis, USA, June 13-17, 2001, for an earlier delineation of the framework.)

29. Although this third paradigm has been called for and developed since the late 1990s (Kempadoo and Doezea [1998]; Wijers, cited in Doezea [2000]), some scholars, particularly those who have more recently joined the debate and who seem to be unaware of the history also come to the conclusion that dominant discourses are quite inadequate and that another perspective is needed. For example, Seagrave argues for an "alternative framework" that "begins with the shifting political, economic, labour and migration patterns that have emerged under conditions of globalisation, including the patterns of women's movement across national and international borders and the feminisation of the low skilled, low-wage workforce in both the Global North and the Global South" (2005, 255). See also Limoncelli (2009), who proposes a feminist political economy approach, and Musto (2009).

30. This direction has been expanded through research into connections between sex work and other forms of women's migrant labor, especially domestic work. See for example O'Connell Davidson (2006), Brennan (2010), Tran (2008), Kim and Fu (2008), Jacobsen and Stenvoll (2010), Andrijasevic and Anderson (2009), Sandy (2007), Papandonato (2008), and Boris et al. (2010), who have repeatedly called for, or deepened, a labor analysis of sex work. It could be argued that research on sexual labor or prostitution that locates the activities within contexts of labor migration constitutes another paradigm or a distinctly different narrative. However, given that analysis of sex work as labor is integral to this third paradigm from the start, through both the study by Than-Dam Tran and the analysis by Carole Leigh in the 1980s, a focus on labor is included as one dimension of the transnational feminist paradigm. Moreover, labor migration has been critical to this third perspective from the outset, and continues to be one of many factors that complicates our understanding of women in the global sex trade (see for example Kempadoo and Doezea [1998], and Agustin [2006; 2007]). This is not however to foreclose the possibility that a more stable set of narratives will appear around either labor or migration, or both, and in the future will constitute distinct paradigms on the subject.

31. As identified by scholars such as Appadurai (2000), Panitch and Leys (2003), Wright (2003), and Sharma (2006).

32. Godec, for example, critiques militarized humanitarian peacekeeping interventions for the devastating effects they have on women—in Kosovo, but also Kuwait, Afghanistan, and Iraq—noting that the “saving women” rhetoric is disjunctive from the reality of women’s lives” (2010, 256). Regarding feminist support for such military interventions, she concludes, “The convergence of interventionist doctrine with the feminist concern about systematic sexual violence, underscored by ‘saving women’ and ‘heroic’ narratives, has proved to be a relationship of inequality” (2010, 258). Similarly, in an analysis of media reports on US military operations in South Korea, Cheng concludes, “the spectacle of victimization in the report narrowly contains Third World women in roles of one-dimensional victims who are helpless and scared, awaiting the rescue of the White knight who will arrive in the form of the protector-hero. The representational obliteration of these women’s agency eliminates the possibility of including their own assessment of what they need and their analysis for solving the problems of their human rights violations. Instead, the women’s power is transferred to the middle-class American journalist who can travel across national borders in a flashy helicopter to access U.S. government officials, who ‘know best’” (2008, 15). Heron (2007) points out that this relationship is repeated through development discourse and interventions, where the “helping imperative” is mobilized by white North American women.

33. Gayatri Spivak, in her pivotal 1988 essay “Can the Subaltern Speak?” argued that due to the dominance of particular discourses, shaped by patriarchy and imperialism, not only is the voice and the figure of the subaltern/Third World/Indian woman unable to be heard and seen, but that any notion of an “authentic” voice disappears. Similarly, Sylvia Wynter (1990) contends that for Caliban’s/Caribbean/Black women, the ground from which she is represented is itself constituted through dominant discourses.


35. Kapoor (2008), echoing Spivak’s ideas about research and work with “the subaltern.”

36. Similarly Agustin calls for greater self-reflection on the part of “helpers,” noting that “social agents and their projects remain at the centre of attention while failing materially to improve the situation of people who sell sex” (2007, 186).

37. While this was the conclusion drawn in the first edition of the book in 2005, it has since been supported in many other research reports and writings on trafficking. See for example, GAATW (2007), Agustin (2007), Maynard (2010), and Dewey (2008).

38. See for example, Keren-Paz and Levkovitz (2009). Godec (2010) also points to the need to investigate UN peacekeeping interventions as part of the problem of trafficking.

39. This is acknowledged by well-established abolitionists, such as Hynes and Raymond (2002), but also by others who have recently joined the crusade against modern-day slavery, such as Pennington et al. (2009).

40. See for example Bales (1999), Viukko (2010), Haynes (2009), and Cole (2009).


42. Shah (2002), Kempadoo (2007; 2009). In 2009 the US rankings were immediately contested by the Caribbean governments of St. Vincent and Guyana governments on the basis of a lack of evidence. The TIP (Trafficking in Persons) designation was considered unfair and unfounded, with no recognition for what was being done locally to address the problem. Even countries that were placed in Tier 2 objected to the US State Department’s ranking, such as the Bahamas where the Ministry of Foreign Affairs issued a statement claiming “there is no positive evidence” of the trafficking of women from Jamaica for sex work, and that incidences of forced labor could not by themselves be taken as evidence to prove that persons were being trafficked. The report reflects the position often taken by Caribbean governments that the US should not try to control or influence affairs in post-colonial, independent nations.

43. See for example, the work of Michel Foucault, Pierre Bourdieu, Sherry Ortner, Judith Butler, and Aliwa Ong.

44. Dorreridge (2007) notes that because men are rarely identified as trafficked victims they lose access to the resources or assistance that are put in place by anti-trafficking interventions, even when it is clear that they have been subjected to forced labor. Dennis’s 2008 analysis of 166 published social science articles reveals an acute invisibility of men in the global sex trade—trafficked or not—and concludes that in the event that they are mentioned, they are accorded more agency than women.

Introduction: Abolitionism, Criminal Justice, and Transnational Feminism


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**PART I**

**SHIFTING PARADIGMS**

Globalization, Labor Migration, and Human Rights