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### ***A Question of Consent? Sexual Slavery and Sex Work in the UK***

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### **Abstract**

In recent years, UK policy on prostitution has been greatly influenced by feminist abolitionist thought in which female prostitution is imagined as sexual slavery, and the overwhelming majority of female prostitutes are said to be routinely subject to the most appalling violence by clients, 'traffickers' and pimps. This is a discourse in which the complex and overlapping continuums of unfreedom and exploitation that can accompany prostitution are reduced to one crude image of brute force and bodily confinement being used to dominate helpless, passive victims. Drawing on data from research on the market for migrant sex workers in London, this paper challenges claims that feminist abolitionists advance about 'sex trafficking' and draws attention to some of the problems that arise when the many and complex rights issues associated with prostitution are reduced to questions of consent, and the metaphor of slavery is indiscriminately used to describe those whose rights are violated.

### **Keywords**

Sex work; slavery; prostitution; migration; feminist abolitionism

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## **A Question of Consent? Sexual Slavery and Sex Work in the UK**

### **Introduction**

In liberal democratic societies, consent plays a central role in the conceptual framework used to imagine and give meaning to social and economic interaction and exchange, as well as political arrangements. It is used to mark a moral boundary between democracy and dictatorship, between rightful exchanges of property and theft, between employment and enslavement, between sex and rape, between marriage and forced marriage, and so on. The notion of consent has also been at the heart of Euro-American feminist debate on prostitution, which for some decades has polarised around the question of whether prostitution entails a violation of personhood that no woman can ever genuinely consent to, and should therefore be understood as a form of slavery – the position taken by feminist abolitionists (for example, Barry, 1995; Jeffreys, 1998; Hughes, 2000; Raymond, 2001)– or whether the body's sexual capacities, like the bodily capacity to labour, constitute property in the person that can be freely and consensually exchanged across a market – the position taken by what might loosely be described as 'sex work feminists' (for example, Alexander 1997; Bindman, 1997; Nagle, 1997; Kempadoo and Doezema, 1998; Kempadoo, 1999; see also Millett, 1975).

Twenty years ago in the UK, few people other than feminist scholars and activists were much interested in this sexual slavery versus sex work debate, and certainly, it had little influence on policy-making. Following the 1957 Wolfenden *Report on Homosexual Offences and Prostitution*, which 'aimed to apply a more rigid distinction between law and morality, claiming that however immoral prostitution may be, it was not the law's business' (Kantola and Squires, 2004, p62), prostitution has been legally framed as public nuisance issue in the UK, rather than as a form of sexual violence/slavery or as a form of labour. Since the late 1990s, however groups like Rape Crisis Federation, Campaign to End Rape, and the Women's National Commission, as well as individual academics and activists (for example, Bindel, 2006) who take an abolitionist stance have lobbied successive New Labour Governments to shift the policy emphasis towards problems of abuse and exploitation, using the issue of 'trafficking' in particular to promote a vision of prostitution as sexual slavery. Their efforts have been successful in

the sense that since 2000, there has been a growing acceptance, both in the media and amongst policy-makers, of the idea that female prostitution in the UK largely involves women and girls who either lack the capacity to consent to prostitution contracts, or who are being forced to prostitute by third parties (see Kantola and Squires, 2004).

As a result, measures intended to address 'trafficking' were included in the Sexual Offences Act 2003, and in 2004, the Government initiated a review of prostitution law and policy with a Green Paper titled *Paying the Price* (Home Office, 2004). This document laid great stress on what it terms the 'vulnerability' of those in prostitution, and the 'coordinated prostitution strategy' presented in the White Paper that followed (Home Office, 2006) also focused almost exclusively on those who are deemed to lack the capacity to consent to prostitution contracts (by virtue of their youth, drug addiction, and so on), and those who are physically forced into prostitution by a third party. The policy responses suggested in the White Paper include measures to reduce street prostitution by enforcing legislation against kerb-crawling and compelling street sex workers to accept referral to services offering routes out of sex work, and the 'disruption' of indoor sex markets by police (Brooks-Gordon, 2006).

Alongside this, there have recently been calls for the criminalisation of men who pay for sex. Three former ministers put forward amendments to the criminal justice and immigration bill (debated in January 2008) that would give local authorities the power to put men before the courts where they are caught paying for sex in zones in town areas, and Harriet Harman, Labour's deputy leader and minister for women, has publicly stated her support for a total ban on buying sex (Woodward, 2007). Calls to criminalise clients are invariably justified through reference to the allegedly huge and growing problem of trafficking into sexual slavery. Former ministers have claimed that there are 25,000 sex slaves in the UK today, while Harriet Harman has defended her position by stating that 'unless you tackle the demand side of human trafficking, which is fuelling this trade, we will not be able to protect women from it' (Woodward, 2007).

It is very clear from the way in which ministers present these proposals for reforming the prostitution regime in the UK that they consider themselves to be adopting a progressive, feminist and rights-based approach to the

issue.<sup>1</sup> And yet if reference to 'sex trafficking' and the vulnerability of female prostitutes were removed from policy documents and discussion, the approach favoured by the UK Government would actually look like a fairly traditional policy of prohibition, one that would find favour with those who object to prostitution on religious grounds and/or view it as a form of sexual and social deviance that causes public nuisance. Indeed, with its moral authoritarian stance on sex buying, its suggestion that police should 'disrupt' the market for indoor prostitution, and that street sex workers should be subject to compulsory 'rehabilitation', the proposed strategy on prostitution could be described as more repressive and punitive than the regime it is designed to replace – unless, of course, politicians are right to describe prostitution in the UK today as a form of modern slavery. Are they? This paper explores the gap between rhetoric and reality in relation to rights violations in the UK sex sector, and considers the implications for policy and for theoretical and political debate on prostitution.

### **'Sex Slaves' in the UK?**

In November 2005, Gavril Dulghieru, a Moldovan living in London, was convicted for conspiracy to facilitate illegal immigration, misuse of stolen credit cards, forgery, money laundering and conspiracy to traffic for prostitution and sexual exploitation. The women he exploited worked twenty hour shifts in brothels in Park Lane, Mayfair and Soho, were fed only one meal a day, and charged for the use of cutlery:

They were forced to have sex with up to 40 men a day for as little as £10 a time to pay off £20,000 debts each - the price for which they were "bought". They were charged rent, and subjected to fines if they refused anal or unprotected sex or a client was not attracted to them. One 23-year-old described how she had to pay £300 per day to live locked in a shared basement and her captors threatened to kill her family. Like many trafficking victims, the computer graduate was lured to Britain by promises of a respectable, well-paid job in a hotel or restaurant but ended up in a brothel: "I believed they would kill my family," she told the court. "I thought I hadn't a way out of this situation. I didn't think I had a life in front of me. I wanted to

escape but everything was locked. We were locked up all the time. I was told I need to go with clients and I needed to do sex with them. I felt very bad. The first time I wasn't able to talk afterwards." (Cowan, 2005).

This case, along with others like it, illustrates the fact that the sex sector in the UK is a site in which people can be subject to very serious forms of exploitation and abuse. It also conforms closely to popular understandings of 'sex trafficking' as 'modern slavery', and when such cases come to light, anti-trafficking campaigners are quick to assert that they represent just 'the tip' of a vast 'iceberg' (Weaver, 2007; Monzini, 2005). One often cited piece of research supporting this belief is a study of the London sex market conducted by the Poppy Project. The Poppy Project, which enjoys support from the British Home Office, and whose workers adopt a feminist abolitionist stance on prostitution, exists to provide accommodation and support services for 'victims of trafficking' in the UK. It also 'has a remit to research and develop services to assist women to exit prostitution and escape trafficking' (Dickson, 2004, p5). The study it published in 2004, *Sex in the City*, set out 'to map where sex is being sold in London... gathering information from a range of sources in order to produce a 'snapshot' of London's sex industry' (Dickson, 2004, p5). A telephone survey of indoor prostitution establishments and escort agencies in London was conducted, the findings from which were then set against quotations from websites where clients 'chat' about sex workers, anecdotal evidence from sexual health outreach projects, and extracts from individual cases of 'trafficked' women, in order to construct a picture of off-street prostitution in the city. The report's stated aim was to focus attention on:

a simple truth: that women are selling sex, and men are buying sex, all over London. Inevitably, many of these women will have been trafficked into the United Kingdom for the express purpose of their sexual exploitation profiting traffickers, pimps and those owning establishments where sex is sold (p5-6).

Though the author acknowledges that she is unable to 'gage exact figures of trafficked women' on the basis of the methods employed by the research, she nonetheless confidently claims that 'more women, at various stages of the

trafficking process, are working in London's sex industry than has previously been estimated' (p10). Her confidence seemingly derives from the elision of 'trafficked' and 'migrant' women working in prostitution – thus, her finding that around 80% of the women working in the indoor prostitution establishments and escort agencies they surveyed were described as migrants is treated as evidence that 'sex trafficking' is a huge and growing problem. The same claims have subsequently been widely publicised through media coverage, and journalists and Government ministers often refer to a police operation conducted in 2006, Operation Pentameter, to further bolster them. This operation involved 515 raids on indoor prostitution establishments in the UK and Ireland over a four month period, leading to 232 arrests and what is described as 'the rescue' of 84 women and girls 'believed to have been trafficked', around half of whom were from Eastern Europe, the remainder from South East Asia, Africa, and Latin America (Pentameter, 2006).

A special report on prostitution in Britain in *The Observer* in April, 2006, provides a good example of the mainstreaming of the belief that it is the norm for women in prostitution in the UK to be subjected to the kind of experience that Gavril Dulghieru subjected the 23 year old to in the case described above. Headlined 'Raped, beaten and helpless: UK's sex slaves', the article asserts that:

Human trafficking for prostitution is one of the UK's fastest growing industries... in 2000, Home Office research estimated that up to 1,400 women had been trafficked into the country. Now, according to police and lawyers, up to 80 per cent of 'off street' prostitution – in massage parlours, peep shows and brothels – in places such as Glasgow and London, involve women from Eastern Europe and the Baltic states' (Roberts, 2006).

If it were true that some 80 percent of female prostitution in London and other British cities involved the kind of violence and force that was used in the Dulghieru case, in other words, that 8 out of every 10 female prostitutes are locked in buildings and compelled by violence or its threat to service clients, then perhaps the Government's spoken intention of disrupting indoor sex markets and police operations like Pentameter could be considered to represent an important first step in addressing the rights violations that take

place in the country's sex sector. But is it really true that the vast majority of female prostitutes in Britain today are subject to the direct and violent control of 'pimps' or 'traffickers'?

The Poppy Project report, which mixes general and unsubstantiated claims about 'trafficking' and examples of individual cases of violence and exploitation with statements about the numbers of migrant sex workers mapped through their telephone survey,<sup>2</sup> implies that this is the case. However, data from the telephone survey they conducted cannot actually speak to questions about 'trafficking' or forced labour in London's indoor sex market, since when their researchers telephoned indoor prostitution establishments, they asked only about 'the location of each place, the numbers of women available, and their nationalities/ethnicities' (Dickson, 2004, p8).<sup>3</sup> At the time the Poppy Project report was published, Bridget Anderson and I were working on Economic and Social Research Council funded research on the markets for migrant domestic and sex workers in the UK and Spain, the UK leg of which included interviews with men who buy sex and with individuals who owned or managed indoor prostitution establishments in London. We also conducted some interviews with police and immigration officers involved in policing indoor prostitution in London.

Although we recognised the very serious methodological limitations of the Poppy Project research, we thought it would be worthwhile to replicate their mapping exercise, albeit on a smaller scale, and ask some additional questions about the services offered in each establishment and about prices. Our aim was not to check the Poppy researchers' claims about the size of the prostitution market in London, or the number, age or nationality of people who sell sex, since we do not believe that reliable data on such issues can be generated by a telephone survey of this nature. However, we were interested in the services offered and the prices quoted by receptionists, and whether they differed between establishments where the workers were described as British and establishments where workers were described as foreign.

We therefore asked a male researcher to search on internet and in free local London newspapers for establishments in which heterosexual men can buy commercial sexual services in London, then telephone the numbers provided posing as a prospective client – in other words, we adopted the same methods as those used by the Poppy researchers. However, in addition to asking about



the location of the establishment and the number and nationalities of workers, our researcher asked whether workers were willing to provide anal sex, oral sex without a condom, and whether they were willing to kiss clients. He also enquired about the prices charged for a 'full personal service' (penetrative vaginal sex), and for anal sex.

The Poppy researchers contacted a much larger number of establishments than we were able to (730 against the 148 different establishments we managed to locate using the method outlined above). However, our findings were very similar as regards the descriptions of the nationalities working in indoor prostitution in London. Poppy researchers found that 19 percent of the sex workers in establishments they contacted were described as British; we found an almost identical percentage - 20 percent.<sup>4</sup> Like the Poppy study, our survey also found that the remaining 80 percent were described as coming from a wide variety of regions and countries, not just from Eastern Europe and the Baltic States. But it is our findings with regard to the services on offer that are relevant for the purposes of this paper. A high percentage of establishments reported their workers to be willing to kiss (73 percent) and more disturbingly given the health risks associated with the practice (see Edwards and Carne, 1998; Khanxsi, 2007), 60 percent reported that workers would be willing to provide oral sex without a condom. Less than a third of establishments reported that workers would provide anal sex, however, and in only a quarter of cases was our researcher told that anal sex *and* oral sex without a condom *and* kissing would be available to him. There was also a significant difference between prices quoted for anal and vaginal sex. The mean price for a 'full personal service' across all establishments contacted was £64, whereas the mean for anal sex was £97.

Again, information on services and prices gathered in this way comes with a methodological health warning. Having myself worked as a receptionist in a private brothel when undertaking ethnographic research on prostitution in Britain (O'Connell Davidson, 1997), I know that prices quoted over the phone are often significantly lower than those actually charged, and that receptionists are sometimes expected to give the impression that more services are on offer than is in fact the case. But I would nonetheless argue that these findings represent a powerful challenge to the idea that 80 percent

of female prostitutes in London are held in what is stereotypically represented as 'sex slavery'.

When women and girls are locked into buildings and forced to provide sexual services to clients by violent third parties, they are not normally given a choice as to which sexual services they provide (as evidenced in the Dulghieru case and other similar cases, some of which are cited in the Poppy Report).<sup>5</sup> Why, after all, would a 'trafficker' or 'pimp' who exercised total and direct control over a woman or child's prostitution force her to kiss clients and provide oral sex without a condom, but allow her to refuse to provide anal sex when a client requested it? Why would such an individual instruct receptionists to tell prospective clients that anal sex is available, but not oral sex without a condom; or that workers are willing to provide oral sex without a condom but not to kiss clients?

The fact that in 69 percent of cases, our researcher, posing as a prospective client and asking 'Does she do anal?' was told 'No', even though anal is a significantly more expensive service, suggests that more sex workers in indoor prostitution in London exercise more control over the details of their working practices than many commentators believe. And the fact that receptionists in three-quarters of the establishments surveyed told our researcher that he would be refused at least one of the three services (anal sex *or* oral sex without a condom *or* kissing) likewise challenges the assumption that overwhelming physical force or its threat is being used to subordinate most of London's female prostitutes to the will of a 'trafficker' or 'pimp'. We also cross-tabulated data on the services that workers were reported to offer against that on their nationality as described by receptionists. Because information provided by receptionists is not a reliable source of data on the nationality of workers in indoor establishments in London, the results must be treated with extreme caution. However, it is interesting to note that our researcher was told that he would be refused one or more service in 75 percent of establishments where receptionists described workers as British, but in 84 percent of the establishments where receptionists described workers as coming from Eastern Europe or the Baltic States.<sup>6</sup>

In short, then, our telephone survey lends no support to the idea that 80 percent of women in indoor prostitution in London are under the close and violent control of a 'trafficker'. Nor, in fact, is this idea supported by the

outcomes of Operation Pentameter, for the discovery of 84 victims of forced labour during raids on 515 establishments does not tally with the estimate that 80 percent of indoor sex workers are VoTs. Indeed, even if we assume that each of the establishments raided employed just one worker (which is almost certainly an underestimate), the outcome of these raids would indicate that less than 17 percent of the sex workers discovered in indoor prostitution conformed to police and immigration officers' understanding of the term 'trafficked person'. If we assume that an average of two workers were present in each establishment that figure drops to around 8 percent.<sup>7</sup> If the Poppy researchers were correct to assume that between four and eight workers are typically employed in each indoor prostitution establishment (Dickson, 2004, p10), then just 1 to 2 percent of sex workers matched up to police and immigration officers' vision of a victim of trafficking.

My aim in presenting these data is not to suggest that *really* only 25 percent or 8 percent or 2 percent of women in indoor prostitution are 'sex slaves', as opposed to 80 percent or some other figure that has been plucked out of the air by anti-trafficking campaigners.<sup>8</sup> Instead, I want to draw attention to some serious problems that arise when the many and complex rights issues associated with prostitution are reduced to questions of consent, and the metaphor of slavery is indiscriminately used to describe those whose rights are violated. Because though I believe that only a minority of women and girls in indoor prostitution in the UK are held captive and forced to prostitute by means of close, violent control and threats against their lives or those of their loved ones, I do not think it follows that the situation of all the rest is unproblematic from a human or labour rights perspective.

### **Consenting to Contracts that May Harm**

It is without doubt true that there are women working in indoor prostitution establishments in London who agree to have sex with clients because someone has effectively kidnapped and imprisoned them, and is using violence or its threat to force them to acquiesce to clients' requests for sexual services. But even within a single form of prostitution in a single country, there is immense diversity within prostitution in terms of its social organisation and the power relations that surround it, as well as in terms of the factors that precipitate individuals' participation in it (O'Connell Davidson, 1998, 2005).

Thus, it also without doubt true that at the other end of the continuum from the Dulghieru case are individuals who make a positive choice to prostitute partly to earn money, but also in order to gratify a personal or sexual interest in the experience of prostitution (sometimes even because they actively wish to claim 'sex worker' as a social identity), and who control every aspect of their own prostitution. But between these two extremes there is a continuum not merely in terms of the type and degree of compulsion that leads individuals to consent to prostitute in the first place, but also in terms of the type and degree of compulsion that encourages them to accept particular working conditions and working practices once in prostitution.

Evidence that a high percentage of women working in indoor prostitution in London are migrants cannot be taken as evidence that people who own or run indoor prostitution establishments are actively recruiting foreign workers or are in any way involved in facilitating or arranging the migration of the migrant sex workers they employ. Indeed, our own interview research with employers in London's sex sector (Anderson and O'Connell Davidson, 2006a; O'Connell Davidson, 2006), as well as my earlier research on indoor prostitution in the UK (O'Connell Davidson, 1998, see also Sanders, 2005) suggests that owners and managers in this sector do not normally need to actively recruit workers (except perhaps when seeking to establish a new business). Instead, they can rely on women – whether local or migrant – approaching them (sometimes through a shared acquaintance, sometimes cold calling by telephone or in person) and asking to be taken onto the books.

The fact that most workers approach employers and ask for work is not a guarantee that they are acting on the basis of a positive wish to prostitute, however. They could be acting under duress from a third party (someone who arranged their migration, for example, or an abusive partner or drug dealer); and/or they could be under strong pressure to quickly repay large debts (such as those incurred during the process of migration, or those owed to a 'loan shark'); and/or they may be struggling to support a drug habit, and/or to support dependants and to meet the very high cost of living, and prostitution may represent the only or the most lucrative earning opportunity available to them. Indeed, there is a good deal of research that suggests these are the kind of pressures that encourage women to consent to work in the more

exploitative forms of prostitution (for example, O'Connell Davidson, 1998; Phoenix, 1999; Andrijasevic, 2003; Day and Ward, 2004; Agustin, 2007).

Because prostitution is not legally recognised as an employment sector in the UK, third party organisers of prostitution are free to construct the sale of sex as something other than 'work'. Those who own and run indoor prostitution establishments rarely acknowledge that they enter into an employment relation with sex workers. Most prefer instead to construct the relationship as a mutually convenient arrangement between entrepreneurs whereby the prostitute is said to rent facilities from the third party, and then trade sex on a self-employed basis. In reality, however, the third party normally exercises a great deal of control over the prostitute's work rate, working practices, prices, and so on. The 'rent' (or 'shift fee') is in typically demanded regardless as to the number of clients that the sex worker sees, so that when business is slow, a sex worker can end up paying almost all her earnings to the 'house', or indeed, failing to cover the shift fee and actually owing money to the 'house'.

This, in combination with the fact that the third party often sets the prices for services and imposes other 'house rules', can operate as a strong financial pressure on sex workers to consent to engage in acts that they might otherwise refuse, and that potentially carry serious health risks, such as anal sex or oral sex without a condom, in order to make up the shift fee. The combination of certain 'house rules' and exorbitant shift fees can also operate as a strong pressure on workers to accept more clients in a day than they would otherwise choose to service. Indeed, in the most extreme cases, the indirect employment relation can be organised in such a way as to pressure women to agree to have sex with very large numbers of clients each day for little or no pay, just as in the Dulghieru case (see O'Connell Davidson, 2006).

In short, the freedom of women who voluntarily work in indoor establishments can be constrained in a number of different ways, and some of these constraints on freedom encourage workers to consent to service a very high volume of clients daily, as well as to contracts that may harm them. And yet they do not necessarily bear any resemblance to the 'sex slaves' depicted in campaigning materials produced by feminist abolitionist groups, which typically include testimony from women and girls who have been violently beaten and raped by pimps, and/or tortured by sadistic clients, lists of physical

illnesses and psychological conditions suffered by women in prostitution, images of trafficked women as puppet-like objects or slabs of meat (Aradau, 2004), or even, in Poppy Project marketing materials, as decapitated heads packaged as sex toys.

Now although feminist abolitionists exploit the most sensational cases and images for lobbying purposes, they actually believe that it is impossible for any woman to consent to sell sexual services, so that for them, women who agree to prostitute in indoor prostitution establishments are just as much 'sex slaves' as women who are kidnapped, imprisoned and physically forced to prostitute. But police, immigration officers, and government officials tend to be rather more selective in their view of who is and is not a 'sex slave'. Certainly, to stand any chance of being identified and assisted as a VoT by the authorities in most countries, a migrant woman or girl working in the sex trade needs to demonstrate first that she did not originally consent to work in prostitution, and second that she has undergone great physical suffering (see Chapkis, 2005; Pearson, 2002; Doezema, 1999 and 2002; Harrington, 2005). And even in the UK, where the law does not rule out the possibility that a woman could have agreed to migrate into sex work but subsequently found herself exploited and unable to escape her situation, the status of VoT is by no means automatically given to those who have been subject to the abuses listed as constitutive of 'trafficking' in the United Nations Trafficking Protocol (2000).

Our interviews with police and immigration officers in the UK suggest that upon contact with the authorities, women need to immediately report a very particular set of experiences in order to stand any chance of being accepted and assisted as a VoT. For instance, asked how she could tell if someone picked up during a raid on a massage parlour was or was not a VoT, an immigration officer answered that during their initial interview (which is usually very brief and held in an interview room in a police station), women are questioned about their routing on the way to the UK, whether they knew what kind of work they would be undertaking, whether they had worked in the sex trade back home, and whether an agent was involved in their migration into sex work in UK. And:

If they say that they were brought here against their will, or they were sold from prostitution in one country on to prostitution in another, or that they're not allowed to leave the building or that they aren't given food, that would obviously tell you they were trafficked.

Likewise, an officer from the Metropolitan Police vice unit explained to me that in his experience, the majority of migrant sex workers in indoor forms of prostitution in London are economically exploited by the owners of such establishments; many have been deceived about earnings and working conditions; and most are working to pay off debts incurred in migration. But, he continued, very few are forced and controlled through means of physical violence or its threat, and it is only rarely that indoor sex establishments are actually run by the same person or people who have recruited the women and/or arranged their entry into the country. In his view, it follows that very few are victims of 'trafficking'.

The fact that police and immigration officers in the UK are looking for a very specific constellation of abuses, namely one involving conspiracy to facilitate illegal immigration, plus prostitution forced by means of physical violence or its threat, plus false imprisonment, is further demonstrated by events surrounding a recent raid on a massage parlour in Birmingham. In October 2005, police executed a human trafficking warrant in a massage parlour (named Cuddles) in order to rescue a number of foreign nationals who were believed to be subject to forced prostitution therein. Police and immigration officers removed nineteen women from the parlour. Those who could prove that they were legally present in the UK (most of whom were Lithuanian, and so EU citizens) were then released. The conditions under which they were working in Cuddles were not investigated further. The six who could not prove they were legally present in the country were detained and asked, in interviews conducted by male officers and lasting in some cases a mere 17 minutes, how they had travelled to the UK, and how they came to be working in Cuddles. On the basis of their answers, the officers involved decided that they were not VoTs, and two days later, they were transferred to an immigration detention centre to await 'removal' (O'Connell Davidson, 2006, pp14-16; see also Adams, 2003).<sup>9</sup>

In practice, then, physical confinement and violence or its threat is the only form of compulsion that is recognised as constraining the freedom of women in prostitution in the UK. This draws attention to the very serious definitional

problems associated with the term 'trafficking' (see Anderson and O'Connell Davidson, 2006b). It also highlights what I would argue is the huge disservice done to those working in the most exploitative and risky forms of prostitution by feminist abolitionists' abstract and rhetorical use of the term 'slavery'.

### **Slavery, Work, Coercion and Consent**

The idea that 'free wage labour' and slavery historically existed as entirely distinct and oppositional categories is increasingly challenged by slavery scholars and scholars of labour history (Steinfeld, 1991, 2001; Craven and Hay, 1994; Lott, 1998; Geary, 2004; Brace, 2004). They point out that elements of freedom historically existed within the juridical category of slavery that sometimes matched the freedoms enjoyed by non-slaves, and also that very real legal restraints have historically been placed on the freedoms of formally 'free' workers. Certainly, it has never been possible to mark a clean boundary between free and coerced labour through reference to notions of choice and consent:

When we speak about most forms of labor compulsion, we are talking about situations in which the compelled party is offered a choice between disagreeable alternatives and chooses the lesser evil. [This] type of compulsion is present in both slavery and modern free wage labour. In slavery, for example, labor is not normally elicited by directly imparting motion to a slave's limbs through overpowering physical force. It is compelled by forcing slaves to choose between very unpleasant alternatives, such as death, torture, and endless confinement, on the one hand, or back-breaking physical labor on the other. The labor of free wage workers is normally elicited by offering workers a choice, for example, between life on an inadequate welfare stipend or, in the extreme, starvation, on the one hand, and performing more or less unpleasant work for wages on the other. In the cases of both the slave and the free wage worker, the parties may be said to have been coerced into performing the labor or to have freely chosen the lesser evil (Steinfeld, 2001, pp14-15).

Similarly, the woman who services large numbers of clients because she is locked into a building and threatened with violence and the woman who services large numbers of clients because she has agreed to pay an exorbitant shift fee to



an indoor prostitution establishment owner could both be described as coerced by the spectre of what would happen if they failed to service large numbers of clients; or they could be described as having chosen to service large numbers of clients daily in preference to suffering those consequences. Steinfeld continues:

the choices presented in slavery were normally vastly harsher than the choices presented in free wage labor, so we may rightly say that the degree of coercion in one form is generally vastly greater than in the other, but there are no logical grounds for saying that the performance of labor in one case is coerced and in the other it is voluntary. As a matter of logic we have to say either that both are involuntary in different degrees or that both involve the free choice of a less evil (2001, p15).

Although free and unfree labour are popularly imagined as clearly separable, the former undertaken voluntarily and the latter involuntarily performed, in reality the line between the two is a matter of convention in liberal democratic societies - it is drawn through reference to 'a judgement about what kinds of coercive pressures are legitimate and illegitimate in labor relations' (2001, p16). This judgement has varied historically (seventeenth century English law locked most workers into lengthy relationships with their masters on pain of imprisonment should they attempt to leave, for instance, Steinfeld, 1991), but crucially for the purposes of this paper, today it is generally informed by a belief that economic pressures are somehow less coercive, and so more legitimate, than physical force or imprisonment. Thus, just as politicians in Europe make a distinction between 'economic migrants' and 'genuine' asylum seekers, so also we find that dull economic compulsion does not feature in the list of forces in the UN Trafficking Protocol (2000) that are deemed to nullify a person's consent to exploitation.

One reading of these arguments in relation to prostitution would lead to the conclusion that all prostitution is forced, that even those women who apparently choose to sell sex are in fact present in prostitution because they are 'vulnerable to the only means of economic existence available to them because they are women, and because they are women they are homeless, and poor' (Barry, 1995, p196), and that governments ought thus to do everything in their power to suppress the market for prostitution. This is the position adopted by feminist abolitionists in the

UK, and as noted above, they have exerted a strong influence on policy-making here.

But I would argue for a different reading, one that starts from an understanding of those who trade sex as active, purposive actors who, like other social actors, always make choices, though rarely between options that are of their own choosing. This allows us to recognise that coercive pressures operate along a continuum, such that at one pole, people are faced with desperately bleak and violent alternatives (including even that between death or agreeing to a form of prostitution within which they exercise no control over the details of the interaction with clients), while at the other end of the continuum, the alternatives can hardly be described as calamitous (for example, the choice between earning a great deal of money as a dominatrix or earning a comfortable income as an academic or an estate agent). Between the two poles lies a spectrum of either more or less dismal options.

As well as allowing us to recognise all those who prostitute as subjects and agents (rather than regarding them as objects and eternal victims), this approach focuses attention on questions about who or what determines the 'background conditions that constitute the options available to individuals' (Steinfeld, 2001, p22). Why are some women in the UK today faced with such dire alternatives? The Home Office's answer to this question appears to be: because there are criminals (traffickers, pimps, drug dealers) who force them into a modern form of slavery, a phenomenon that is in turn driven by men's demand for commercial sex. But this is to overlook the fact that 'Law pervasively conditions the universe of possibilities that determine the degree of economic compulsion individuals confront in all market societies', societies where, indeed, 'an extensive set of background legal rules establishes to a significant degree the real alternatives working people have available, as they decide whether to enter or to remain at a job' (Steinfeld, 2001, p23-4).

In the UK, the welfare and the immigration regimes in particular serve to severely limit the alternatives open to poor women (especially lone parents) and to undocumented migrants and migrants whose immigration status denies them the right to enter paid work. Likewise, inadequately resourced support services for drug users, the homeless, victims of domestic violence and so on restrict the real options open to those who are affected by such problems. In

this context, there are people for whom even highly exploitative and risky forms of prostitution will appear as a lesser evil than their alternatives.

Furthermore, once individuals have chosen prostitution in preference to other options available to them, the Government's current and proposed strategy does nothing to address the forms or degree of compulsion that can be brought to bear upon them *within* prostitution. Because prostitution is not recognised and regulated as a form of work, employers in the sex sector are not constrained by the kind of rules that are applied to employment relations in other sectors, rules that shape the power relations between employers and workers and establish certain minimum standards regarding pay, working conditions, health and safety and so on. Indeed, since the only protection that a sex worker can expect from the British state (and even this is in theory much more than in practice) is to be 'rescued' from an employer who locks them into a building, and/or rapes or beats them or threatens to kill their family, we could say that this *is* the minimum standard. Providing employers kindly refrain from physical violence and/or confinement, they have pretty much carte blanche to subject their indirect employees to whatever other coercive pressures they please.

In feminist abolitionist discourse, female prostitution is always forced, either in the sense that female prostitutes are 'victims of trafficking' or lack the capacity to consent to prostitution contracts, or in the sense that patriarchal power structures leave them with no alternative but to prostitute. Furthermore, the overwhelming majority are said to be routinely subject to the most appalling violence by clients and pimps.<sup>10</sup> In this way, the complex and overlapping continuums of unfreedom and exploitation that can accompany prostitution are reduced to one crude image of brute force and bodily confinement being used to dominate helpless, choiceless, passive victims. In the UK, feminist abolitionists appear to have succeeded in winning ministers and Home Office officials over to a view of prostitution as peopled almost entirely by 'sex slaves', children, and desperate, despairing drug addicts. But they have not converted mainstream politicians and policy-makers to the belief that female prostitution is by definition forced, or that economic pressures can exert a degree of compulsion commensurate with that exerted by physical violence and bodily confinement.

For policy-makers and for those charged with enforcing policy, the orthodox liberal distinction between coercion and consent remains real and important, and it is only those women and girls who conform to the stereotype of helpless, choiceless, non-consenting, passive victim that are deemed worthy of protection and assistance. Those who appear to exercise agency, to make choices, to consent to work in prostitution are not imagined as 'innocent' and 'deserving' victims and can therefore be summarily deported if they are irregular migrants or their immigration status makes it illegal for them to earn from prostitution. And if Clause 105 of the Criminal Justice and Immigration Bill, 2008, comes into law, all street sex workers who are arrested for loitering or soliciting and who fail to comply with compulsory 'rehabilitation' requirements (in other words, those who do not play the part of a victim desperate for help to escape the horror of prostitution) will be summonsed back to court and subject to a possible 72 hours imprisonment (Safety First, 2008).

I do not wish to suggest that there is one simple or straightforward policy solution that would at a stroke offer rights and protections to those currently working in the most exploitative forms of prostitution. Given that migrant workers are known to be at risk of often quite extreme forms of abuse and exploitation in employment sectors of the UK that are in theory legal and regulated (see Anderson and Rogaly, 2005), it is clear that neither decriminalisation nor regulation could guarantee that no-one in prostitution is ever forced to choose between two almost equally abysmal alternatives. And certainly, neither decriminalisation nor regulation would do anything to address the background conditions that turn prostitution into the least-worst option for many poor women and irregular migrants. However, I do believe that decriminalisation and a serious attempt to identify the minimum standards that should be applied to sex work, and to agree on what constitutes an unacceptable level of 'exploitation' within prostitution (self-exploitation as well as by an employer), and on appropriate measures to enforce minimum standards, represent a necessary first step towards securing rights and protections for those who do decide that sex work is the best of a poor bunch of options.

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## Endnotes

<sup>1</sup> See, for example, the blog of Harriet Harman (<http://blog.harrietharman.org/>), and Fiona McTaggart's website (<http://www.fionamactaggart.labour.co.uk/>).

<sup>2</sup> For example, the summary of key findings states first that 'Women are trafficked into boroughs all over London', and follows this immediately by reporting that 'Ninety-three different ethnicities were mapped in the 730 flats, parlours and saunas, only 19% of women were from the United Kingdom' (Dickson, 2004, p10).

<sup>3</sup> This is one of an extremely long list of methodological problems with the Poppy Project research, some of which are actually noted in the report, but then forgotten when it comes to presenting findings. So, for example, the report notes that information about workers provided over the telephone by receptionists of indoor prostitution establishments is not necessarily truthful (p9), and also comments on the fact that receptionists often use bizarre and/or incommensurate systems of racial, ethnic and national classification (variously referring to workers as 'Tropical', or 'Asian', or 'Thai', for instance). And yet the report goes on to state that '25% of the women mapped working in London's sex industry were from Eastern Europe, 13% were from South East Asia, 12% from Western Europe and 2% from Africa' (p10).

<sup>4</sup> It is worth reiterating that receptionists' descriptions of workers cannot be treated as reliable information about the workers' true nationalities. Those described as 'Thai', 'African', 'Caribbean', and so on, were not necessarily migrants and could well have been British nationals, with the receptionist using these terms as a way of indicating the worker's racialised identity to the client. Equally, there may have been sex workers who were actually British nationals but who preferred to market themselves as 'Scandinavian' or 'French'.

<sup>5</sup> For example, 'D' was trafficked into prostitution in London. She was not always allowed to negotiate safe sex', and 'K' was trafficked into prostitution in one flat in Lambeth. Condoms were only used when the man buying her wanted them' (Dickson, 2004, p25).

<sup>6</sup> If we take into account the fact that a third party who was holding women and girls from Eastern Europe captive and forcing them to prostitute might well lie about their nationality, describing them as 'Scandinavian' or as an 'other EU' national, this percentage rises, but not dramatically. If we add together those establishments where workers were described as Eastern European, Scandinavian and Other EU, 79 percent told our researcher that one or more service would not be available to him.



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<sup>7</sup> In other words, pretty close to the estimate that 5 percent of women working in the London sex industry were trafficked that health projects provided the Home Office with in 1999 (Kelly and Regan, 2000, p20)

<sup>8</sup> Indeed, even if our survey findings could be replicated using more reliable research methods, they would not tell us anything about the employment relations and working conditions in the 25 percent of establishments where workers were reported as willing to provide all three services (that is, anal sex, oral without a condom and kissing). It is perfectly possible that a sex worker would agree to provide all of these services without being forced into so doing by a third party, for individuals who trade sex differ in terms of the specific sexual acts that they personally feel comfortable about engaging in with clients, the meanings they attach to different sexual acts and their knowledge of safer sex practices.

<sup>9</sup> All six would have been 'removed' four days later had it not been for extensive lobbying with regard to their case. Eventually, the six were interviewed by Poppy Project workers, who identified two of their number as VoTs.

<sup>10</sup> See Weitzer's (2005) critique of the feminist abolitionist research literature.