



## Beyond Border Security: Feminist Approaches to Human Trafficking

Jennifer K. Lobasz

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## **Beyond Border Security: Feminist Approaches to Human Trafficking**

JENNIFER K. LOBASZ

*International human trafficking—sometimes referred to as modern-day slavery—has increasingly come to be seen as a security threat. The question remains as to what kind of threat human trafficking poses. Traditional security approaches to international human trafficking call for analysis of trafficking as a threat to the state and to state control of borders. Traditional security analyses of trafficking therefore emphasize border security, migration controls, and international law enforcement cooperation. Feminist analyses of human trafficking challenge the traditional security framework, prioritizing the security of trafficked persons and recognizing the manner in which victims are threatened by both traffickers and the state itself. I argue that feminist approaches to human trafficking are essential for understanding and combating the phenomenon. Feminists identify the ethical and pragmatic grounds for broadening the analytical focus from states to people. Feminists' most important contribution, however, lies in the investigations of the social construction of human trafficking, which highlight the destructive role that sexist and racist stereotypes play in constructing the category of trafficking victims.*

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Jennifer K. Lobasz is a Ph.D. candidate in the Department of Political Science at the University of Minnesota.

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While some classify such crime types as “non-traditional” threats to security—in many ways they are the most traditional threats to a nation’s security, to a nation’s interest. Slavery has ever been a threat to national unity and national interest. As long as there has been slavery, from the Jews enslaved in ancient Egypt, to black Africans trafficked to North America, there has been dissent and unease within nations (defined here as “an agglomerated people” rather than the modern concept of a “State”) about the nature of the act. Modern human trafficking is no different.<sup>1</sup>

It is not remarkable that Brian Iselin, a regional legal policy advisor for the United Nations, refers to international human trafficking as a major threat. What is significant is how trafficking is seen as a threat: what kind of a threat does it pose and to whom or what? A traditional security approach—one in line with the mainstream, primarily realist, security scholarship that emerged in the 1950s—would call for analysis of trafficking as a threat to the state and particularly to the control of its borders. In the terminology of the “Copenhagen School” of security studies, the state here acts as the “referent of security”—that which must be secured against an existential threat.<sup>2</sup> Traditional security solutions to human trafficking have focused primarily upon enhanced border security and swift deportation of trafficked persons, who are considered “illegal immigrants.” Like the traditional security scholars who focus primarily on war and military security, those who focus on crime and borders are concerned first and foremost with the security—indeed, the survival—of the sovereign state.

Yet the meaning of security has come under greater scrutiny following the end of the Cold War, with security scholars seeking to broaden conceptions of security beyond the military realm to incorporate issue areas such as economics, the environment, and health and to deepen approaches to security through additional levels of analysis.<sup>3</sup> The broadening and deepening

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<sup>1</sup> Brian Iselin, “Addressing the Challenge to Security from the Trafficking in Human Beings” (paper presented at the OSCE-Thailand Conference on the Human Dimension of Security, Bangkok, 20–21 June 2002).

<sup>2</sup> The Copenhagen School refers to the body of work in international relations inspired by Barry Buzan’s 1983 *People, States, and Fear*. See Barry Buzan, *People, States and Fear: An Agenda for International Security Studies in the Post-Cold War Era*, 2nd ed. (Boulder: Lynne Rienner Publishers, 1991). See also Barry Buzan et al., eds., *Identity, Migration and the New Security Agenda in Europe* (London: Pinter Publishers, 1993); Barry Buzan, Jap de Wilde, and Ole Wæver, *Security: A New Framework for Analysis* (Boulder: Lynne Rienner Publishers, 1998); Ole Wæver, “Securitization and Desecuritization,” in *On Security*, ed. Ronnie Lipschutz (New York: Columbia University Press, 1995). For feminist criticism of the Copenhagen School, see Lene Hansen, “The Little Mermaid’s Silent Security Dilemma and the Absence of Gender in the Copenhagen School,” *Millennium Journal of International Studies* 29, no. 2 (2000): 285–306.

<sup>3</sup> Keith Krause and Michael C. Williams, “Broadening the Agenda of Security Studies: Politics and Methods,” *Mershon International Studies Review* 40, no. 2 (1996); Jessica Tuchman Mathews, “Redefining Security,” *Foreign Affairs* 68, no. 2 (1989). A small number of notable calls to rethink the concept of

**TABLE 1** Traditional and Feminist Security Approaches to International Human Trafficking

Approach	Security Referent	Security Threat	Policy Focus
Traditional	States	Traffickers, undocumented migrants	Border security, migration controls, international law enforcement cooperation
Feminist	People	Traffickers, border patrol and law enforcement officials, abusive employers and clients	Social services, human rights, safe migration, worker protections, attention to status of prostitution

of the concept of security suggest that there might be more than one way to understand the threat of international human trafficking.<sup>4</sup>

Feminist analyses of human trafficking have eschewed a traditional security framework, considering instead the security of trafficked persons, recognizing the manner in which both traffickers and the state itself pose security threats. Table 1 summarizes the traditional security and feminist approaches to human trafficking and demonstrates how changing the referent object of security leads to a change in policy focus as well.<sup>5</sup>

Feminists challenge the traditional security approach to international human trafficking on two levels: the ethical and the pragmatic. Feminists argue that as an issue of ethics, human trafficking is first and foremost a violation of human rights.<sup>6</sup> Focusing on trafficking as a security threat to

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security preceded the end of the Cold War, notably Arnold Wolfers, “National Security” As an Ambiguous Symbol,” *Political Science Quarterly* 67, no. 4 (1952); Richard. H. Ullman, “Redefining Security,” *International Security* 8, no. 1 (1983).

<sup>4</sup> Subsequent references to “trafficking” should be understood to mean international human trafficking, sometimes called trafficking in persons, rather than drug, arms, or any other kind of trafficking. While human trafficking is often understood as requiring the movement of persons, such movement need not involve crossing an international border. That said, the academic and policy literature distinguish between domestic and international human trafficking. International agreements such as the United Nations Convention Against Transnational Organized Crime, which includes the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, apply specifically to the transnational traffic in persons. See Kevin Bales, *Understanding Global Slavery* (Berkeley: University of California Press, 2005), 129, United Nations General Assembly, 55<sup>th</sup> Session, Official Document, Supplement 49, “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,” UN General Assembly Resolution 25, Annex II, A/45/49, 2001. [http://www.uncjin.org/Documents/Conventions/dcatoc/final\\_documents.2/convention\\_%20traff\\_eng.pdf](http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents.2/convention_%20traff_eng.pdf). While domestic human trafficking is also an important issue, I restrict my focus here to trafficking across international borders in accordance with the UN definition and in order to highlight aspects such as national security and the human rights of transnational migrants that are specific to international trafficking.

<sup>5</sup> This should not be taken to mean that there is only one set of feminist approaches to international human trafficking. The goal of this table is to characterize what the feminist approaches share in common and to distinguish them from traditional security frameworks.

<sup>6</sup> It should be noted that while this is not a uniquely feminist argument, feminists were the first to widely insist upon protecting the human rights of trafficked persons, especially in regard to women and children trafficked into prostitution. See Kathleen Barry, *Female Sexual Slavery* (New York: New York University Press, 1979).

the state neglects the voices of trafficked persons, whose human rights the state is legally obligated to protect. Founded on the premise that scholars of trafficking need to shift their focus from state security to the security of people, feminist research on trafficking began with analyses of the experiences of trafficked persons, emphasizing in particular the plight of women trafficked for sexual exploitation. From a standpoint of efficacy, feminists hold that traditional security approaches compound rather than solve the problem of trafficking. First, repressive border control policies make migration more difficult and dangerous and increase migrants' vulnerability to traffickers. Second, trafficked persons who are deported are themselves prone to re-trafficking. In short, feminists maintain that traditional security approaches to human trafficking are both morally and practically deficient.

Feminist analyses of human trafficking do more than expand the referent of security from states to people. While many feminists highlight the plight of trafficked persons—and this remains an important and worthy endeavor—it is important to note that to simply expand the referent of security is insufficient: care must be taken in regard to how actors are constructed as threatened. This is because prevalent constructions of human trafficking rely upon and reproduce gender and racial stereotypes that (1) discount women's agency, (2) establish a standard for victimization that most trafficked persons cannot meet, and (3) unjustly prioritize the sexual traffic of white women over the traffic of women and men of all races who are trafficked for purposes including, but not exclusive to, the sex trade.

Feminist approaches to human trafficking clearly share a good deal with the alternative security frameworks that have arisen in the past two decades. In J. Ann Tickner's words, "Feminists' commitment to the emancipatory goal of ending women's subordination is consistent with a broad definition of security that takes the individual, situated in broader social structures, as its starting point."<sup>7</sup> In particular, feminist approaches are largely congruent with the concept of "human security" proposed in the UN Development Program's (UNDP) 1994 Human Development Report.<sup>8</sup> Though the concept itself has been subject to debate and criticism, human security, in general, is characterized by a shift in focus from security of the state to the security of people, changing the referent of security in much the same way that feminists have done with trafficking.<sup>9</sup> This is not to say, however, that a

<sup>7</sup> J. Ann Tickner, *Gendering World Politics* (New York: Columbia University Press 2001), 48.

<sup>8</sup> United Nations Development Program, *Human Development Report* (New York: Oxford University Press, 1994).

<sup>9</sup> United Nations Commission on Human Security, "Human Security Now," (New York: United Nations, 2003). See also Special Issue on Human Security, *Security Dialogue* 35, no. 3 (2004). For criticism of human security, see Roland Paris, "Human Security: Paradigm Shift or Hot Air?" *International Security* 26, no. 2 (2001): 87-102.; Barry Buzan, "What is Human Security? A Reductionist, Idealistic Notion that Adds Little Analytical Value," *Security Dialogue* 35, no. 3 (2004): 369-70. While there is much overlap in the

human security approach to trafficking would subsume a feminist approach; feminist analyses of trafficking establish the necessity of gender as a category of analysis in a way that traditional and human security theories do not. As noted, feminists not only establish women as a referent of security and focus on gender-related human rights abuses but also, and perhaps more significantly, study the manner in which gender stereotypes are used to establish and reproduce categories of practices, perpetrators, and victims.

In this article, I show that feminists have made two essential contributions to the analysis of international human trafficking: expanding the focus of trafficking analyses to account for the exploitation of trafficked persons and paying attention to how the concept of human trafficking is socially constructed in the first place. I argue that these feminist contributions can serve as a foundation for a reformulated approach to human trafficking for security studies. To begin, I briefly present international human trafficking as an issue for global concern, highlighting the ambiguities and debates that characterize contemporary analyses of trafficking. Second, I discuss traditional security approaches to human trafficking, explaining how trafficking is presented as an organized crime threat to the state as well as a threat to state borders. I then provide feminist critiques of traditional security analyses and analyze the feminist debates regarding human trafficking and the status of prostitution. I conclude that, far from being irreconcilable, the two sides of these feminist debates together suggest important directions for the future study of human trafficking, attracting greater attention to trafficked persons while using gender as a category of analysis to reflect on the representation of those persons.

## THE ISSUES OF HUMAN TRAFFICKING

Analysts and practitioners of international relations use the term “human trafficking” to refer to a variety of illicit activities, including sexual exploitation, forced labor, debt bondage, slavery and slavery-like practices, serfdom, and forced marriage.<sup>10</sup> Trafficking is practiced in many different ways. Recruiters deploy strategies from kidnappings to deceptive job advertisements for nannies, wait staff, or dancers to “mail-order-bride” services.<sup>11</sup> What is more,

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principles of advocacy for human security and against human trafficking, there has yet to be significant overlap within political movements. Key documents establishing the human security framework do include trafficking as a grave threat to, in the words of the UN Commission on Human Security, “people on the move,” but the specific language of human security is much less prevalent in the anti-trafficking movement than in the language of human rights. For notable exceptions, see H. Richard Friman and Simon Reich, eds., *Human Trafficking, Human Security, and the Balkans* (Pittsburgh: University of Pittsburgh Press, 2007); Michelle Anne Clark, “Trafficking in Persons: An Issue of Human Security,” *Journal of Human Development* 4, no. 2 (2003): 247–63.

<sup>10</sup> Ann D. Jordan, “The Annotated Guide to the Complete UN Trafficking Protocol,” (Washington, DC: International Human Rights Law Group, 2002), 9–10.

<sup>11</sup> Donna M. Hughes, “The ‘Natasha’ Trade: The Transnational Shadow Market of Trafficking in Women,” *Journal of International Affairs* 53, no. 2 (2000): 634.

there is no consensus on the magnitude of the trafficking problem. Despite seemingly authoritative reports published by a wide range of organizations such as the U.S. Department of State and the International Labor Organization, the data on human trafficking is notoriously unreliable. The hidden nature of the crime, coupled with the reluctance of victims to risk deportation from the state or retribution from their traffickers, and the conceptual confusion surrounding what and who counts as trafficked, makes this activity hard to measure.<sup>12</sup> For example, a United Nations Educational, Scientific and Cultural Organization (UNESCO) chart featuring a compilation of various indicators of worldwide human trafficking states that estimates of individuals trafficked each year range from 500,000 to four million.<sup>13</sup> The disparity between estimates is also related to the difficulty in distinguishing—conceptually and in practice—among the trafficked, the smuggled, legal migrants in illicit industries, and refugees.<sup>14</sup> Challenges here reflect both the complexity of the issues and the political agendas of the researchers and funding institutions.<sup>15</sup> For example, numerous religious groups and feminist organizations have campaigned to place all prostitution under the designation of trafficking on the grounds that prostitution is never truly voluntary, a claim I return to later.

The complexity of the trafficking issue has led to equally complex scholarly and policy responses to the problem. Whereas the 1904 and 1910 International Agreements for the Suppression of the White Slave Traffic, the 1921 and 1933 League of Nations Conventions on the Traffic in Women and Children, and the 1949 UN Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others focused exclusively on forced prostitution, contemporary measures target a greater variety of activities. Moreover, whereas past measures were concerned with the threat to societal virtue, contemporary measures reflect a greater concern for the threat to state security.<sup>16</sup>

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<sup>12</sup> Galma Jahic and James O. Finckenauer, "Representations and Misrepresentations of Human Trafficking," *Trends in Organized Crime* 8, no. 3 (2005): 24–40; Frank Laczko and Marco A. Gramegna, "Developing Better Indicators of Human Trafficking," *Brown Journal of World Affairs* 10, no. 1 (2003): 179–94.

<sup>13</sup> United Nations Educational, Scientific and Cultural Organization (UNESCO), "Data Comparison Sheets," <http://www.unescobkk.org/index.php?id=1963>.

<sup>14</sup> Nora Demleitner, "The Law at a Crossroads: The Construction of Migrant Women Trafficked into Prostitution," in *Global Human Smuggling: Comparative Perspectives*, ed. David Kyle and Rey Koslowski (Baltimore: Johns Hopkins University Press, 2001); James O. Finckenauer, "Russian Transnational Organized Crime and Human Trafficking," in *Global Human Smuggling*; Liz Kelly, "'You Can Find Anything You Want': A Critical Reflection on Research on Trafficking in Persons within and into Europe," Special Issue on Human Trafficking, *International Migration* 43, nos. 1–2 (2005): 235–65.

<sup>15</sup> Guri Tyldum and Anette Brunovkis, "Describing the Unobserved: Methodological Challenges in Empirical Studies on Human Trafficking," *International Migration* 43, nos. 1–2 (2005): 17–34.

<sup>16</sup> Tom Obokata, *Trafficking of Human Beings from a Human Rights Perspective* (Leiden: Martinus Nijhoff, 2006); Eileen Scully, "Pre-Cold War Traffic in Sexual Labor and Its Foes: Some Contemporary Lessons," in *Global Human Smuggling*; Joel Quirk, "Trafficked into Slavery," *Journal of Human Rights* 6 (2007): 181–207.

After the 1949 UN Convention was passed, human trafficking fell away from international attention only to reappear at the end of the twentieth century in the context of globalization.<sup>17</sup> Combating human trafficking re-emerged as an international priority in the late 1980s as a number of states, non-governmental organizations (NGOs), human rights activists, and various feminist and religious groups sought to publicize the issue.<sup>18</sup> David Kyle and Rey Koslowski note that law enforcement busts of major trafficking rings, statements by world leaders, international conferences, and popular films all contributed to a rise in awareness regarding the issue.<sup>19</sup> In the late 1990s, U.S. president Bill Clinton established interagency working groups to explore the ramifications of human trafficking and potential strategies for prevention, and Congress subsequently passed the landmark Trafficking Victims Protection Act of 2000 (TVPA) in October 2000. International organizations have likewise begun to address human trafficking, particularly in terms of its relation to transnational organized crime and human rights protection. There are at least fifteen international organizations with significant countertrafficking efforts, including the UN, the International Labor Organization (ILO), the International Organization on Migration (IOM), the Organization for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS), the Association of Southeast Asian Nations (ASEAN), and the World Bank.<sup>20</sup>

Increasing government and activist attention to international human trafficking is complemented by increasing scholarly attention to the issue. Trafficking research has largely confounded the theory/policy divide, and even putatively academic research is often funded by or conducted under the auspices of governmental or intergovernmental organizations. According to Frank Laczko, "One of the strengths of trafficking research is its action-oriented approach, with studies often designed to prepare the ground for counter-trafficking interventions."<sup>21</sup> This supposed strength is not without its disadvantages. Others have argued that research on human trafficking is very much shaped by the immediate policy needs and political commitments of researchers and "does not necessarily ensure a deepening of the knowledge base."<sup>22</sup>

<sup>17</sup> Hughes, "The 'Natasha' Trade: The Transnational Shadow Market of Trafficking in Women."

<sup>18</sup> Frank Laczko, "Introduction," Special Issue on Human Trafficking, *International Migration* 43, nos. 1–2 (2005): 5–16; Elzbieta M. Gozdzak and Elizabeth A. Collett, "Research on Human Trafficking in North America: A Review of Literature," Special Issue on Human Trafficking, *International Migration* 43, nos. 1–2 (2005): 99–128.

<sup>19</sup> David Kyle and Rey Koslowski, eds., *Global Human Smuggling: Comparative Perspectives* (Baltimore: Johns Hopkins University, 2001), 5.

<sup>20</sup> Government Accountability Office (GAO), *Human Trafficking: Better Data, Strategy, and Reporting Needed to Enhance U.S. Antitrafficking Efforts Abroad* (Washington, DC: GPO, 2006), 37–39.

<sup>21</sup> Laczko, "Introduction to Special Issue on Human Trafficking."

<sup>22</sup> Kelly, "You Can Find Anything You Want," 236.



## A Threat to Borders and Orders

Although international human trafficking does not present a specifically military threat, government officials worldwide argue that trafficking nonetheless gravely endangers the state.<sup>23</sup> In the United States, for example, the Government Accountability Office (GAO) observes that “the top goal of [Immigration and Customs Enforcement’s] trafficking in persons efforts—to disrupt and dismantle criminal organizations involved in trafficking, including intelligence gathering on these organizations—is aligned with [Department of Homeland Security] strategic goals of assessing vulnerabilities and mitigating threats to the homeland.”<sup>24</sup> These threats to national security center largely on transnational organized crime and security of state borders.

In response to the apparently growing menace posed by trafficking, the United Nations passed the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, a supplement to the 2000 United Nations Convention Against Transnational Organized Crime.<sup>25</sup> This protocol mandated the criminalization of trafficking, repatriation of victims, strengthened border controls, and more secure travel and identity documents.<sup>26</sup> The Trafficking Protocol also includes measures to protect the human rights of trafficking victims, but Ann Gallagher argues that “while human rights concerns may have provided some impetus (or cover) for collective action, it is the sovereignty/security issues surrounding trafficking and migrant smuggling which are the true driving force behind such efforts.”<sup>27</sup>

The specter of organized crime networks and menacing mafiosi looms large in discussions of trafficking. The Center for European Policy studies notes, “Anti-trafficking policies have put an emphasis on organized and transnational crime and harsher penalties for perpetrators of human trafficking crimes. Transnational organized crime is seen as the dark side of globalization, threatening and damaging democracy and the economic basis of societies, weakening institutions and confidence in the rule of law.”<sup>28</sup> Rather than representing a departure from traditional organized crime, trafficking is said to complement the existing activities of criminal networks.

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<sup>23</sup> Joanna Apap, Peter Cullen, and Felicita Medved, “Counteracting Human Trafficking: Protecting the Victims of Trafficking” (paper presented at the European Conference on Preventing and Combating Trafficking in Human Beings, Brussels, 18–20 September 2002), 8; Willy Bruggeman, “Illegal Immigration and Trafficking in Human Beings Seen as a Security Problem for Europe” (paper presented at the European Conference on Preventing and Combating Trafficking in Human Beings, Brussels, 18–20 September 2002).

<sup>24</sup> GAO, *A Strategic Framework Could Help Enhance the Interagency Collaboration Needed to Effectively Combat Trafficking Crimes* (Washington, DC: GPO, 2007), 18. The Department of Homeland Security’s interest in combating human trafficking is closely connected to its interest in preventing all unauthorized border crossing of, for example, “terrorists.”

<sup>25</sup> This convention is known as the “Palermo Convention” after the Italian city in which it was signed.

<sup>26</sup> Jordan, “The Annotated Guide to the Complete UN Trafficking Protocol.”

<sup>27</sup> Ann Gallagher, “Trafficking, Smuggling and Human Rights: Tricks and Treaties,” *Forced Migration Review* 12 (2002): 936.

<sup>28</sup> Apap, Cullen, and Medved, “Counteracting Human Trafficking,” 7.

As the European Commission explained to the European Parliament and Council, "Human trafficking is a serious crime against persons, which must be addressed as a form of organized crime linked to other serious offenses and as a clear law enforcement priority. High profits from labor and sexual exploitation are often subject to money laundering and may enable traffickers to engage in other criminal activities and to achieve economic, social or even political power."<sup>29</sup> Kevin Bales concurs, noting that human trafficking "supplements more traditional criminal activities, such as drug trafficking, vehicle theft, arms trafficking, and money laundering."<sup>30</sup>

Separate from human trafficking's relationship to transnational organized crime networks, trafficking is figured as a security threat insofar as trafficked persons are often undocumented migrants.<sup>31</sup> In particular, government officials of Western trafficking destinations have treated trafficking as an outgrowth of changing patterns in global labor migration, and subsequently, "international migration has moved to the top of the international security agenda."<sup>32</sup> According to the European Commission, "The prevention of and the fight against human trafficking is an essential element of the EU's efforts to improve the checks and surveillance at the external borders and to enhance the fight against illegal immigration."<sup>33</sup> Scholars have connected the emergence of human trafficking as a threat in the European Union with the opening of internal European borders, the fall of the Soviet Union, and globalization.<sup>34</sup> Following the collapse of communism in the Warsaw Pact states and the breakdown of the Soviet Union, EU officials feared an influx of economic migrants from the East and sought to balance relaxation of internal border controls with a strengthening of border controls outside the Schengen area.<sup>35</sup> This context facilitated the EU's securitization of not only

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<sup>29</sup> Commission of the European Communities, Communication from the Commission to the European Parliament and the Council, "Fighting Trafficking in Human Beings: An Integrated Approach and Proposals for an Action Plan," <http://europa.eu.int/eur-lex/lex/LexUriServ/LexUriServ.do?uri=COM:2005:0514:FIN:EN:PDF>.

<sup>30</sup> Bales, *Understanding Global Slavery*, 135.

<sup>31</sup> See Anna M. Agathangelou, *The Global Political Economy of Sex: Desire, Violence, and Insecurity in Mediterranean Nation States* (New York: Palgrave Macmillan, 2004).

<sup>32</sup> Fiona B. Adamson, "Crossing Borders: International Migration and National Security," *International Security* 31, no. 1 (2006): 165.

<sup>33</sup> Commission of the European Communities, "Fighting Trafficking in Human Beings."

<sup>34</sup> Apap, Cullen, and Medved, "Counteracting Human Trafficking," 6–7, International Labor Organization, "Forced Labor, Child Labor, and Human Trafficking in Europe: An ILO Perspective" (paper presented at the European Conference on Preventing and Combating Trafficking in Human Beings, Geneva, 18–22 September 2002).

<sup>35</sup> George Katrougalos, "The Rights of Foreigners and Immigrants in Europe: Recent Trends," *Web Journal of Current Legal Issues*, <http://webjcli.ncl.ac.uk/articles5/katart5.html>; Wyn Rees, "Organised Crime, Security and the European Union" (draft paper for the ESRC Workshop, Grenoble, 2000); European Consortium for Political Research, <http://www.essex.ac.uk/ecpr/events/jointsessions/paperarchive/grenoble/ws8/rees.pdf>. The Schengen area refers to the geographical territory of the states agreeing to the Schengen conventions of 1985 and 1995, which were incorporated into EU law by the 1999 Treaty of Amsterdam. The conventions abolish internal border controls between signatories.

trafficking but migration in general, placing “the regulation of migration in an institutional framework that deals with the protection of internal security.”<sup>36</sup> Thus, “throughout the 1990s, the United States and Europe expanded the policing of their borders, increased the use of technology to monitor and regulate these borders, and generally militarized and securitized border crossings.”<sup>37</sup>

The connection between trafficking and migration poses difficulties for traditional security approaches to border control since differentiating international human trafficking from immigrant smuggling is difficult. In fact, it was not until the adoption of two separate UN protocols to the 2000 Palermo Convention that one found an international legal effort to distinguish between the two phenomena. As set forth in the Trafficking Protocol:

“Trafficking in persons” shall mean the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.<sup>38</sup>

This definition of trafficking lies in contrast to the Protocol against the Smuggling of Migrants by Land, Sea and Air, which states, “‘Smuggling of migrants’ shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.”<sup>39</sup>

Trafficking and immigrant smuggling are therefore defined as two distinct activities, with trafficking distinguished principally by the elements of coercion and exploitation. Yet some argue that human trafficking and migrant smuggling are better thought of as two ends of a continuum.<sup>40</sup> Adam Graycar notes, “It is frequently difficult to establish whether there were elements of deception and/or coercion, and whether these were sufficient to elevate the situation from one of voluntary undocumented migration,

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<sup>36</sup> Jeff Huysmans, “The European Union and the Securitization of Migration,” *Journal of Common Market Studies* 38, no. 5 (2000): 756–57.

<sup>37</sup> Adamson, “Crossing Borders,” 178.

<sup>38</sup> United Nations, “Protocol to Prevent, Suppress and Punish Trafficking in Persons.”

<sup>39</sup> United Nations General Assembly, 55th Session, Official Document, Supplement 49, “Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Crime,” UN General Assembly Resolution 25, Annex III, A/45/49, 2001.

<sup>40</sup> Moisés Naím, *Illicit: How Smugglers, Traffickers, and Copycats Are Hijacking the Global Economy* (Doubleday, 2005), 89.

to trafficking.”<sup>41</sup> Many trafficking victims consent to being smuggled across borders but do not consent to the exploitation that occurs in the host country.<sup>42</sup> Likewise, smuggled migrants often experience exploitation and abuse, sometimes sexual, while in transit.<sup>43</sup> According to a Clinton White House fact sheet on human trafficking and migrant smuggling, “While at their core distinct, these related problems result in massive human tragedy and affect our national security, primarily with respect to crime, health and welfare, and border control.”<sup>44</sup>

Feminists and other human rights activists have been, to some degree, complicit in presenting human trafficking as threat to state security and for understandable reasons. Critical security scholars have long argued that securitization, or the incorporation of a given issue under the umbrella of “security,” is a potent, though not unproblematic, strategy for increasing the attention and resources devoted to that issue.<sup>45</sup> “While service providers, NGOs and women’s groups have been concerned primarily with the victimization aspect of trafficking in women, for the problem to get government attention, they had to present it in a sufficiently alarming way. . . thus, the transmogrification into an organized crime and/or illegal migration issue—issues that the public feels strongly about and expects governments to act on.”<sup>46</sup> The time has come to recognize the drawbacks of this strategy.

### A Threat to Persons

Since the mid-nineteenth century, feminists have lobbied states and international organizations to fight human trafficking while challenging the traditional security approach to trafficking on grounds of both ethics and efficacy. The ethical argument rests on three claims: (1) human trafficking represents a violation of victims’ human rights, (2) states are obliged under international law to prevent human rights abuses, and (3) state efforts to address human trafficking thus far are unsatisfactory in protecting human rights and indeed may contribute to the violation of those rights in state treatment of persons who are trafficked.

Rather than seeing trafficked persons as undocumented migrants or otherwise “undesirable” threats to state security, feminists emphasize their status as victims, focusing on the wide array of human rights violations that

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<sup>41</sup> Adam Graycar, “Trafficking in Human Beings” (paper presented at the International Conference on Migration, Culture, and Crime, Israel, 1999), 2.

<sup>42</sup> Quirk, “Trafficked into Slavery,” 191.

<sup>43</sup> Apap, Cullen, and Medved, “Counteracting Human Trafficking,” 17–18.

<sup>44</sup> White House Office of the Press Secretary, news release, “Fact Sheet on Migrant Smuggling and Trafficking,” 15 December 2000.

<sup>45</sup> See note 2; Karin M. Fierke, *Critical Approaches to International Security* (Cambridge: Polity Press, 2007).

<sup>46</sup> Jahic and Finckenauer, “Representations and Misrepresentations of Human Trafficking,” 28.

trafficking often entails. Feminists use narratives from trafficked persons to dramatize abuses and to make their plight more concrete. This draws upon a longstanding tradition of valuing women's voices and of incorporating women's experiences into theory.<sup>47</sup>

The Global Alliance Against Trafficking in Women (GAATW) notes that traffickers routinely violate the human rights enumerated in the Universal Declaration of Human Rights (UDHR). Among those rights are:

- the right to be free from physical violence, including rape, sexual assault, domestic violence, forced prostitution, and trafficking (Article 3)
- freedom from slavery (Article 4)
- the right not to be tortured or submitted to cruel or degrading treatment (Article 5)
- the right to personal autonomy (Article 12)
- freedom of choosing residence and moving within own country (Article 13.1)
- the right to safe and healthy working conditions (Article 23.1)
- the right to equal pay for equal work (Article 23.2)
- the right to just and favorable remuneration (Article 23.3)
- the right to enjoy psychological, physical and sexual health (Article 25)<sup>48</sup>

It is both rhetorically and legally significant that human trafficking entails not only aspects that most people would find undesirable or even morally repugnant but abuses that specifically contravene the UDHR. The ability of activists to forcefully connect the plight of trafficked persons to a document that "has been endorsed, regularly and repeatedly, by virtually all states" has been essential in the international effort to move from a border-/state-security approach to a victim-centered approach that demands trafficked individuals be viewed as vulnerable humans rather than dangerous threats.<sup>49</sup>

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<sup>47</sup> See, for example, Cherrie Moraga and Gloria Anzaldúa, eds., *This Bridge Called My Back: Writings by Radical Women of Color* (1981; New York: Kitchen Table Women of Color Press, 1983); Carol Gilligan, *In a Different Voice: Psychological Theory and Women's Development* (Cambridge, MA: Harvard University Press, 1982); Sara Ruddick, *Maternal Thinking: Towards a Politics of Peace* (New York: Ballantine Books, 1989); Sandra Harding, ed., *The Feminist Standpoint Theory Reader: Intellectual and Political Controversies* (New York: Routledge, 2004); Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment* (New York: Routledge, 2000). Other feminists such as Joan W. Scott and Chandra Talpade Mohanty have argued that "experience" is a problematic notion in itself. Uncritical reliance upon experience as the foundation for knowledge runs the risk of reifying difference rather than critically understanding the construction and possibilities of difference. See Joan Wallach Scott, "The Evidence of Experience," *Critical Inquiry* 17, no. 4 (1991); Chandra Talpade Mohanty, "Feminist Encounters: Locating the Politics of Experience," *Copyright 1* (Fall 1987):30–44.

<sup>48</sup> Global Alliance Against Traffic in Women (GAATW), *Human Rights and Trafficking in Persons: A Handbook* (Bangkok: 2000).

<sup>49</sup> Jack Donnelly, *Universal Human Rights in Theory and Practice*, 2nd ed. (Ithaca: Cornell University Press, 2002), 22. See also Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998).

Moreover, the language of human rights demands that state governments be legally obligated to protect individuals within their own territory against human rights abuses even if those individuals are not citizens of that state and even if the government itself is not the group abusing human rights.<sup>50</sup> Feminists can therefore claim moral and legal ground with which to reframe the problem of trafficking.

As pioneers of the human rights approach to trafficking, feminists protest the still too common treatment of trafficked individuals—especially women—as criminals rather than victims.<sup>51</sup> While the traffickers may receive little to no punishment, trafficked individuals may be victimized twice: first by the traffickers and second by the host governments. The Trafficking Protocol and the Migrant Smuggling Protocol were specifically written to distinguish between voluntary and coercive migration, but, in practice, the coerced trafficking victims are often treated as voluntary undocumented migrants by border control and other state security apparatuses. The question of whether the individuals crossing borders are doing so freely or under coercion is considered less important than the fact that people are entering countries illegally, apparently by transnational organized crime groups.<sup>52</sup> Trafficked persons in the Czech Republic, for example, are often treated as migrants “who are in many cases perceived as committing the crime of staying in the Czech Republic illegally and are expelled from the country.”<sup>53</sup> Anthony DeStefano points to a similar example from a hearing on human trafficking given before the U.S. Senate Committee on Foreign Relations in February 2000. He describes the testimony of a Mexican woman identified as Inez who had been trafficked from Veracruz, Mexico to a trailer park in Florida. “But aside from recounting an all-too-familiar litany of details about sexual servitude, Inez’s testimony raised an additional point. She mentioned that, after federal immigration investigators and the FBI raided the brothels, they sent the women to a detention center for many months.”<sup>54</sup> Likewise, Peter Landesman explains, “The operating assumption among American police departments is that women who sell their bodies do so by choice, and

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<sup>50</sup> GAATW, *Human Rights and Trafficking in Persons*.

<sup>51</sup> Janice G. Raymond and Donna M. Hughes, *Sex Trafficking of Women in the United States: International and Domestic Trends* (New York: Coalition Against Trafficking in Women, 2001).

<sup>52</sup> Jo Goodey, “Sex Trafficking in Women from Central and East European Countries: Promoting a ‘Victim-centred’ and ‘Woman-centred’ Approach to Criminal Justice Intervention,” *Feminist Review* 2006 (2004): 26–45; Jacqueline Berman, “(Un)Popular Strangers and Crises (Un)Bounded: Discourses of Sex-Trafficking, the European Political Community and the Panicked State of the Modern State,” *European Journal of International Relations* 9, no. 1 (2003): 37–86.

<sup>53</sup> Europol, “Legislation on Trafficking in Human Beings and Illegal Immigrant Smuggling,” Europol Public Information, <http://www.europol.eu.int/publications/Other/Reports%202005/Legislation%20on%20THB%20and%20IIS%20Public.pdf>.

<sup>54</sup> Anthony DeStefano, *The War on Human Trafficking* (New Brunswick, NJ: Rutgers University Press, 2007), 40.

undocumented foreign women who sell their bodies are not only prostitutes (that is, voluntary sex workers) but also trespassers on U.S. soil.”<sup>55</sup>

Feminist work on human trafficking shows that this characterization is inaccurate and oversimplified. Many women who are trafficked either do not consent to immigrate at all or are misled by traffickers about the nature of the work they will be doing and the extent of their obligation to the traffickers. Still others plan to migrate and to work in the sex industry but experience terrible human rights violations, including—though not limited to—rape, assault, debt bondage, sexual exploitation, and slavery.

Various states and international organizations have responded to feminist criticism by introducing measures for victim protection. The Trafficking Protocol, for example, contains measures to protect the human rights of those trafficked, including five articles outlining legal assistance, medical and psychological services, housing, and training, and the UN now retains a Special Rapporteur on the human rights of trafficking victims.<sup>56</sup> These human rights provisions, however, lack the force of the security measures. “Consequently, readers will notice that the law enforcement provisions in the Trafficking Protocol contain mandatory language, such as ‘state parties shall,’ while the protections and assistance provisions (see Protocol Articles 6 and 7 and Convention Articles 24 and 25) contain weaker terms, such as ‘in appropriate cases’ and ‘to the extent possible.’”<sup>57</sup> In the United States, the TVPA provided for medical care and other social services for trafficking victims, as well as the possibility of T visas for victims who agree to work with federal law enforcement in prosecuting their traffickers.<sup>58</sup> Likewise, the EU’s 2004 European Council directive on the short-term residence permit called for trafficking victims to have housing, health care, and legal assistance during a short “reflection period,” in which they could decide whether to help authorities, and then additional assistance as well as a short-term residence permit if the victims agreed to assist in prosecuting the traffickers.<sup>59</sup>

Feminists argue, however, that tying victim protection and assistance to cooperation with authorities, as UN, EU, and U.S. policies all do, is flawed from a human rights perspective.<sup>60</sup> The needs of the victims are subordinated to the security needs of the state, which may or may not find any given case worth prosecuting.<sup>61</sup> According to Wendy Chapkis, the T visa, which

<sup>55</sup> Peter Landesman, “The Girls Next Door,” *The New York Times*, 25 January 2004.

<sup>56</sup> United Nations, “Protocol to Prevent, Suppress and Punish Trafficking in Persons.”

<sup>57</sup> Jordan, “The Annotated Guide to the Complete UN Trafficking Protocol,” 3.

<sup>58</sup> United States Department of Justice, “Department of Justice Issues T Visa to Protect Women, Children and All Victims of Human Trafficking,” news release, 24 January 2002.

<sup>59</sup> Europol, “Legislation on Trafficking in Human Beings and Illegal Immigrant Smuggling.”

<sup>60</sup> Phyllis Coontz and Catherine Griebel, “International Approaches to Human Trafficking: The Call for a Gender-Sensitive Perspective in International Law,” *Women’s Health Journal* 4 (2004): 47–58. See also Goodey, “Sex Trafficking in Women from Central and East European Countries.”

<sup>61</sup> Coontz and Griebel, “International Approaches to Human Trafficking,” 57.

still allows for victims in the United States to be deported once a criminal case is finished, “is designed not so much as a means to assist the victim as it is a device to assist prosecutors in closing down trafficking networks.”<sup>62</sup> Srikantiah elaborates:

The statutory requirements for the visa reflect a legislative compromise between the humanitarian and prosecutorial functions of the visa. The T visa is a hybrid: it both provides humanitarian assistance to individuals who are victims of a severe form of trafficking, and satisfies interests in prosecuting traffickers by requiring victim compliance with requests for assistance in investigations. The T visa is thus unlike purely humanitarian immigration relief, such as asylum or relief under the Violence Against Women Act (VAWA), which require only demonstration of victim status.<sup>63</sup>

In short, even the policies that are meant to protect the human rights of trafficked persons still prioritize the interests of the state.

Feminists argue that treating trafficking victims like criminals is not only wrong, it is counterproductive. Given a population of migrants who wish to pursue a better life elsewhere, traditional approaches that focus on policing borders increase the need for migrants to hire a facilitator (smuggler) and the cost of doing so. Migrants who seek the assistance of professional smugglers for unauthorized border crossing become even more vulnerable to exploitation by traffickers.<sup>64</sup> As Jacqueline Berman characterizes the problem, “A focus on crime and violated borders (rather than on the conditions under which women migrate or are forced to work) extends barriers to migration and renders it more dangerous for women while not necessarily hindering movement or assisting the actual victims.”<sup>65</sup>

Moreover, when those who have been trafficked are deported, they risk being re-trafficked. Commenting on the Trafficking Protocol, Ann Jordan, Director of the International Human Rights Law Group’s Initiative Against Trafficking in Persons, argues, “A law enforcement approach, by itself, may endanger trafficked persons, and it often results in the immediate deportation of potential witnesses or else arrest and imprisonment. An approach that treats victims as criminals or immigrants without rights also is responsible for causing trafficked persons to disappear into the underground or

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<sup>62</sup> Wendy Chapkis, “Trafficking, Migration, and the Law: Protecting Innocents, Punishing Immigrants,” *Gender & Society* 17, no. 6 (2003): 932.

<sup>63</sup> Jayashri Srikantiah, “Perfect Victims and Real Survivors: The Iconic Victim in Domestic Human Trafficking Law,” *Boston University Law Review* 87 (2007): 159.

<sup>64</sup> Nandita Sharma, “Anti-Trafficking Rhetoric and the Making of a Global Apartheid,” *NWSA Journal* 17, no. 3 (2005): 91; Bruggeman, “Illegal Immigration and Trafficking,” 3; Quirk, “Trafficked into Slavery,” 197; Ann D. Jordan, “Trafficking and Globalization,” Center for American Progress, <http://www.americanprogress.org/issues/2004/10/b222852.html>.

<sup>65</sup> Berman, “(Un)Popular Strangers and Crises (Un)Bounded,” 37. See also Wendy Chapkis, *Live Sex Acts: Women Performing Erotic Labor* (New York: Routledge, 1997), 94.



to return home without any support. At its worst, it may also lead to their re-trafficking.”<sup>66</sup> For example, prior to the Turkish government’s reform of its countertrafficking program, the government’s “practice of ‘dumping’ victims in neighboring countries made them [the victims] vulnerable to re-trafficking by local recruiters and traffickers.”<sup>67</sup> Repatriated trafficked persons may find themselves threatened by the same individuals who originally exploited them. Having returned to the circumstances many had originally sought to leave, formerly trafficked persons may also decide to make another attempt to migrate, running the risk of trafficking once more.<sup>68</sup>

### Feminist Debates Regarding Trafficking

While feminists agree on the necessity to protect the human rights of trafficked persons, they disagree on who should be considered a victim of trafficking and what precisely should be done to protect victims’ rights. Feminist abolitionists focus primarily on women trafficked for sexual exploitation, advocating the abolition of prostitution and enhanced protections for sex trafficking victims. From this perspective, prostitution is antithetical to women’s human rights, and all prostitutes are victims of trafficking. Feminist critics of the abolitionist approach take issue with the notion that prostitution is inherently harmful. They support the decriminalization or legalization of prostitution and argue that current anti-trafficking activities rely upon and contribute to counterproductive if not harmful stereotypes of trafficking victims.

Heated debate among feminists regarding prostitution threatened to derail UN Trafficking Protocol negotiations for nearly a year.<sup>69</sup> As Jo Doezeema describes it, “In effect, the lobby was split into two ‘camps’: both framing their approaches to trafficking in feminist terms, in agreement about the size and scope of the problem, and univocal in demanding an international response. Both groups were made up of feminists and human rights activists from the developing world and the developed world.”<sup>70</sup> Unsurprisingly, members of each camp are loath to accept the feminist credentials of the other camp. Abolitionists’ critics remain suspicious of the feminist abolitionist alliance with pro-life evangelical Christians, while abolitionists claim that sex workers’ rights advocates are in the pay of pimps and traffickers. These debates

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<sup>66</sup> Jordan, “The Annotated Guide to the Complete UN Trafficking Protocol,” 4.

<sup>67</sup> United States Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, <http://www.state.gov/g/tip/rls/tiprpt/2004/>.

<sup>68</sup> William Finnegan, “The Countertraffickers: Rescuing the Victims of the Global Sex Trade,” *The New Yorker*, 5 May 2008.

<sup>69</sup> DeStefano, *The War on Human Trafficking*, 26.

<sup>70</sup> Jo Doezeema, “Now You See Her, Now You Don’t: Sex Workers at the UN Trafficking Protocol Negotiation,” *Social & Legal Studies* 14, no. 1 (2005): 67.

set up what appears to be an impasse between abolitionist feminists and those who argue for an alternative view of sex work and human trafficking.

#### THE NEW ABOLITIONISTS

Like earlier international campaigns against human trafficking and “white slavery” at the turn of the twentieth century, the first contemporary feminists to launch a major campaign against human trafficking focused primarily on the traffic of women for sexual exploitation. Kathleen Barry’s 1979 *Female Sexual Slavery* is credited with renewing feminist interest in stopping sex trafficking and launching the modern anti-trafficking movement. For Barry, the fight against trafficking is a fight against all prostitution.<sup>71</sup> She explains, “From interviews and other research I learned that virtually the only distinction that can be made between traffic in women and street prostitution is that the former involves crossing international borders.”<sup>72</sup> Her position thus entails a rejection of any distinction between “forced” prostitution and “voluntary” prostitution, as the latter is a contradiction in terms. Women who believe they are voluntarily engaged in prostitution have fallen prey to false consciousness as a survival strategy. Worse, women engaged in prostitution who are also proponents of prostitution are actively supporting the patriarchal exploitation of other women.

Female sexual slavery not only crosses borders: it incorporates all women living in patriarchal orders so that women, regardless of class, ethnicity, or nationality, have their sexual victimhood in common. Prostitution is simply one aspect of the sexual oppression of women: the “commonality of women’s experience in female sexual slavery. . . makes it possible to understand that ‘victim’ can mean also prostitute, battered wife, incestuously assaulted child, veiled woman, purchased bride.”<sup>73</sup> The commonality of women’s experiences as victims therefore suggests the possibility for a transnational movement based on these experiences to fight female sexual slavery. Yet even as prostitution is a single facet of women’s oppression, it is “the model, the most extreme and most crystallized form of all sexual exploitation.”<sup>74</sup> Thus, although Barry understands “prostitute women not as a group set apart, which is a misogynist construction, but as women whose sexual exploitation is consonant with that of all women’s experience of sexual exploitation,” she nonetheless makes prostitution (and, by extension, trafficking in women for sex) the center of her feminist campaign.<sup>75</sup>

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<sup>71</sup> Barry, *Female Sexual Slavery*.

<sup>72</sup> *Ibid.*, 7.

<sup>73</sup> *Ibid.*, 41.

<sup>74</sup> *Ibid.*, 11.

<sup>75</sup> *Ibid.*, 9.

Feminists inspired by Barry's work and led by the influential Coalition Against the Traffic in Women (CATW) hold that the criminalization of prostitution is a necessary step toward ending human trafficking.<sup>76</sup> These feminists found unexpected allies among American evangelical Christians, and they are known jointly as prostitution "abolitionists." In the United States, abolitionists successfully lobbied the George W. Bush administration for a federal "gag rule" that requires anti-trafficking groups who receive federal monies to explicitly reject legalized prostitution.<sup>77</sup> Abolitionists have been less successful at the UN level where they were stymied in their attempts to define all prostitution as trafficking within the Trafficking Protocol.

#### A COMPETING FEMINIST APPROACH

The opposition to abolitionist approaches comes from a set of feminists who are critical of the grouping of prostitution and trafficking and the assumption that attacking prostitution will end trafficking. These critics take issue with both the traditional security approach to trafficking and with abolitionists, arguing that human trafficking represents an instance of the larger problem of abusive treatment of migrants and low-wage laborers, including, but not limited to, prostitutes or "sex workers." From this perspective, it is essential to protect the rights of all trafficked persons, whether victims of forced sex or forced non-sex labor. Exploitation, rather than prostitution, is seen as the problem.

One criticism of the abolitionist approach is that not all trafficked persons are sex workers, and not all human trafficking is a part of the sex industry. Compared to the traffic of women for sexual exploitation, the traffic of women and men for non-sex labor has received short shrift.<sup>78</sup> Numerous transnational organizations aligned against human trafficking specifically resist the "traffic in women," which is understood to take place for the purposes of sexual exploitation, and the notion that sex trafficking victims are perceived as distinct from labor trafficking victims and other immigrants becomes readily apparent upon even cursory reviews of academic literature and governmental and activist websites. Books and articles written putatively about human trafficking restrict their focus to sex trafficking only;

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<sup>76</sup> See Kathleen Barry, Charlotte Bunch, and Shirley Castley, eds., *International Feminism: Networking against Female Sexual Slavery; Report of the Global Feminist Workshop to Organize against Traffic in Women* (Rotterdam: International Women's Tribune Center, 1983); Raymond and Hughes, *Sex Trafficking of Women in the United States*; Sheila Jeffreys, "Trafficking in Women Versus Prostitution: A False Distinction" (paper presented at the Townsville International Women's Conference, Townsville, Australia, 2002); Julie Bindel, "False Distinctions between Pornography, Prostitution, and Trafficking," in *Trafficking and Women's Rights*, ed. Christien L. van der Anker and Jeroen Doomernik (Houndsmills, Basingstoke, Hampshire: Palgrave Macmillan, 2006).

<sup>77</sup> DeStefano, *The War on Human Trafficking*, 108–11.

<sup>78</sup> Gozdziaik and Collett, "Research on Human Trafficking in North America," 117.

news reports and documentaries overwhelmingly focus on titillating reports of “sex slavery” instead of enslaved domestic staff or abused farm workers.<sup>79</sup> The singular focus on trafficking in women for sexual exploitation is due in part to media sensationalism of a “sexy” topic. Richard Friman and Simon Reich point to media sensationalism of, and public fascination with, incidents of female sexual exploitation.<sup>80</sup> Of his three-year “Smuggled for Sex” series for *Newsday*, DeStefano writes, “Admittedly, we focused on the sex industry because it was a good subject for newspaper treatment.”<sup>81</sup>

Yet while women (as well as male and female children) are trafficked and enslaved for sex, men and women are trafficked for other labor as well. One feminist account of this is Christine Chin’s work on the human rights violations experienced by trafficked female Filipino and Indonesian domestic workers in Malaysia. Chin highlights the abuse these women suffered and argues that the trafficking they experience is complex and multifaceted. She contends that the Malaysian state supported the (forced) importation and employment of foreign female domestic workers as part of a strategy to curry favor with the middle class and promote ethnic harmony. Chin’s work demonstrates that human trafficking extends beyond sex trafficking, as do its gendered implications.<sup>82</sup>

Insofar as prostitution is the issue at hand, feminist critics of abolitionism hold that sex work is not synonymous with human trafficking. While the sex industry is often abusive and exploitative, as are other low-status and low-wage industries, it is not inherently so.<sup>83</sup> Thus, states, scholars, and activists alike must “identify prostitution as work, as an occupation susceptible like the others to exploitative practices.”<sup>84</sup> This perspective is espoused primarily by “sex-positive feminists,” who see sexual liberation as a key component of

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<sup>79</sup> Kelly, “You Can Find Anything You Want.”

<sup>80</sup> H. Richard Friman and Simon Reich, “Human Trafficking and the Balkans,” in *Human Trafficking, Human Security, and the Balkans*.

<sup>81</sup> DeStefano, *The War on Human Trafficking*, xvii. Barry herself warned against sensationalism in the service of advocacy. She connects the representations of trafficked women today to the anti-trafficking activists of the late nineteenth century who used lurid stories to publicize the issue. She writes that “the net result of their paternalistic, highly dramatized concern was to characterize the victims as such poor, sweet young things as to make the stories about them unbelievable. The very effort to dramatize and create attention casts suspicion on the veracity of the stories.” Barry, *Female Sexual Slavery*, 11.

<sup>82</sup> Christine B. N. Chin, *In Service and Servitude: Foreign Female Domestic Workers and the Malaysian ‘Modernity’ Project* (New York: Columbia University Press, 1998).

<sup>83</sup> Sharon Bell notes, “Prostitutes’ rights groups do not claim that prostitution is a free choice; they claim that it is as free a choice as other choices make in a capitalist, patriarchal, and racist system.” Shannon Bell, *Reading, Writing, and Rewriting the Prostitute Body* (Bloomington and Indianapolis: Indiana University Press, 1994), 111.

<sup>84</sup> Jo Bindman, “An International Perspective on Slavery in the Sex Industry,” in *Global Sex Workers: Rights, Resistance, and Redefinition*, ed. Kamala Kempadoo and Jo Doezema (New York: Routledge, 1998), 67.

women's liberation and by sex workers' rights activists, who have organized sex worker unions and advocacy groups across the world.<sup>85</sup>

Sex worker unions and sex workers' rights activists propose the principle of harm reduction as opposed to abolition. They argue that legalizing prostitution provides resources for sex workers to use, if they so choose, to protest abusive conditions without rejecting the entire industry.<sup>86</sup> Focusing on sex trafficking to the exclusion of other forms of trafficking unfairly stigmatizes women in the sex industry and places them in a disempowered position. As Jo Bindman writes, "The distinction between 'the prostitute' and everyone else helps to perpetuate her exclusion from the ordinary rights which society offers to others, such as rights to freedom from violence at work, to a fair share of what she earns, or to leave her employer."<sup>87</sup>

Sex workers have also worked together with anti-trafficking activists on behalf of women who have been forced into prostitution. For example, sex workers allied with GAATW during the UN Trafficking Protocol negotiations and were instrumental in defining sex trafficking as "forced" prostitution rather than prostitution per se.<sup>88</sup> Likewise, the Durbar Mahila Samanwaya Committee (Durbar), an organization of 65,000 sex workers in West Bengal, India, takes an active role in anti-trafficking work, establishing self-regulatory boards (SRBs) "to prevent entry of minor girls and unwilling adult women into the sex sector, control the exploitative practices in the sector, regulate the rules and practices of the sector and institute social welfare measures for sex workers and their children."<sup>89</sup>

## The Social Construction of Trafficked Persons

Beyond specific arguments against the prohibition of prostitution, critics of abolitionism make a more general, and perhaps more significant, claim

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<sup>85</sup> See Carol Vance, ed., *Pleasure and Danger: Exploring Female Sexuality* (New York: Pandora Press, 1989); Jill Nagle, ed., *Whores and Other Feminists* (New York: Routledge, 1997); Chapkis, *Live Sex Acts*. Prominent sex worker unions and advocacy groups include COYOTE (Call Off Your Old Tired Ethics) in the United States, the Scarlet Alliance in Australia, the Red Thread in the Netherlands, Hydra and Hookers United (HGW) in Germany, the Durbar Mahila Samanwaya Committee in India, the Association of Women Prostitutes of Argentina (ANMAR), the Democratic Coalition of Sex Workers in Korea, the International Committee for the Rights of Sex Workers in Europe, the Asia Pacific Network of Sex Workers, the Network of Sex Work Projects, the International Union of Sex Workers, the International Committee for Prostitutes' Rights, and The International Prostitutes' Collective, to name but a few. See Gregor Gall, *Sex Worker Union Organizing: An International Study* (Houndsmills, Basingstroke, Hampshire: Palgrave Macmillan, 2006).

<sup>86</sup> Priscilla Alexander, "Feminism, Sex Workers, and Human Rights," in *Whores and Other Feminists*, ed. Jill Nagle (New York: Routledge, 1997).

<sup>87</sup> Bindman, "An International Perspective on Slavery in the Sex Industry," 65. See also Jo Doezeema, "Forced to Choose: Beyond the Voluntary V. Forced Prostitution Dichotomy," in *Global Sex Workers*, 42.

<sup>88</sup> Alison Murray, "Debt Bondage and Trafficking: Don't Believe the Hype," in *Global Sex Workers*, 98.

<sup>89</sup> Durbar Mahila Samanwaya Committee, "Anti-Trafficking Website of Durbar — Our Mission," [http://antitrafficking-durbar.org/our\\_mission.html](http://antitrafficking-durbar.org/our_mission.html). See also Finnegan, "The Countertraffickers."

regarding human trafficking: it matters how trafficked persons are socially constructed. I argue that this more critical insight should be recognized as one of feminist theorists' central contributions to the study of human trafficking. Current constructions of human trafficking rely on gender stereotypes that discount women's agency. The conflation of "international human trafficking" with "trafficking of women for sexual exploitation" reflects gendered notions of agency that frame men as actors and women as victims—those acted upon.<sup>90</sup> According to the GAO, "In most countries where trafficking data are gathered, women and children are seen as victims of trafficking, and men are predominantly seen as migrant workers, reflecting a gender bias in existing information. Men are also perceived as victims of labor exploitation that may not be seen as a crime but rather as an issue for trade unions and labor regulators."<sup>91</sup> Trafficking discourses rest upon stereotypes of men actively going out into the world to make their way and women passively staying at home unless duped, seduced, or kidnapped by a trafficker.<sup>92</sup> Hence, Melissa Ditmore and Marjan Wijers note that the full title of the UN Trafficking Protocol is the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the emphasis on women and children upholds stereotypical perceptions of men as autonomous actors and women as passive victims.<sup>93</sup> Representations of trafficking based upon women's assumed lack of agency conflict with how many trafficked women perceive themselves. Mertus and Bertone explain, "The narrative of individuals labeled as victims in this process, however, often reflects a far more complicated self-understanding of their own status, one that is not static and devoid of agency. These individuals stress that they were not always victims. At some early state, their involvement was completely willing, albeit tremendously ill-informed."<sup>94</sup>

Bindman argues that analyses of trafficking must recognize that women, like men, make choices and take risks within the international labor market for a wide range of reasons—from the need to financially support themselves and their families to the desire to seek adventure and new experiences. Bindman elaborates:

Looking at trafficking from the perspective of the majority of the women we are concerned with, it is clear that most women come to Western Europe because they are looking for a better way to make a living. In

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<sup>90</sup> Laura María Agustín, *Sex at the Margins: Migration, Labor Markets, and the Rescue Industry* (London: Zed Books, 2007).

<sup>91</sup> GAO, *Human Trafficking*, 15.

<sup>92</sup> Julia O'Connell Davidson and Bridget Anderson, "The Trouble with 'Trafficking'," in *Trafficking and Women's Rights*, 21.

<sup>93</sup> Melissa Ditmore and Marjan Wijers, "The Negotiations on the UN Protocol on Trafficking in Persons," *Nemesis* 4 (2003): 82.

<sup>94</sup> Julie Mertus and Andrea Bertone, "Combating Trafficking: International Efforts and Their Ramifications," in *Human Trafficking, Human Security, and the Balkans*, 51.

this sense, they should be seen as labor migrants. Migration is an age-old survival strategy for men as well as for women. It implies courage and initiative to try to change one's own or the family's situation. Certainly, women who have become victims of trafficking cannot be classified as passive or stupid victims. This may seem self-evident, but ten years of daily work on the issue of trafficking proves it is still not the case for many people involved in the whole process, such as police officers and the judiciary.<sup>95</sup>

This should not be read as a call to ignore or downplay the sense in which trafficking victims are coerced or misled but rather to begin analysis of human trafficking with the recognition that it occurs within a larger context in which labor migration is a reasonable pursuit.<sup>96</sup>

These inherited notions of trafficking betray a reliance on sex-based stereotypes of women's capabilities which create unrealistic perceptions of victims as innocent, pure, and sexually exploited. Sex trafficking discourses emphasize elements such as sexual innocence and naïveté, kidnapping, and sexual brutality in order to produce a sympathetic victim who would be politically unpalatable to criminalize. The commonly held picture of the trafficking victim depicts a young, naïve woman who seeks a better life away from her rural home by answering an advertisement to become a waitress or nanny and then ends up a sex slave, repeatedly raped, brutalized, and resold to other mafia pimps.<sup>97</sup> The UN's informational website on human trafficking is indicative of this trope, describing enslaved young women who are beaten, raped, and forced to work up to eighteen hours a day, garnering enormous profits for those who sell them.<sup>98</sup> Media reports tread upon this same worn ground. In *The New York Times*, Landesman describes an "epidemic" of sex slavery in the United States, run in part by Mexican crime families that prey on young girls:

The father controls the organization and the money, while the sons and their male cousins hunt, kidnap and entrap victims. The boys leave school at 12 and are given one or two girls their age to rape and pimp out to begin their training, which emphasizes the arts of kidnapping and seduction. [These men] troll the bus stations and factories and school dances where under-age girls gather, work and socialize. They first ply the girls like prospective lovers, buying them meals and desserts, promising affection and then marriage. Then the men describe rumors they've heard about America, about the promise of jobs and schools. Sometimes the

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<sup>95</sup> Bindman, "An International Perspective on Slavery in the Sex Industry," 70.

<sup>96</sup> Ditmore and Wijers, "The Negotiations on the UN Protocol on Trafficking in Persons," 82–83.

<sup>97</sup> Berman, "(Un)Popular Strangers and Crises (Un)Bounded"; Jahic and Finckenauer, "Representations and Misrepresentations of Human Trafficking."

<sup>98</sup> United Nations Office on Drugs and Crime, "Trafficking in Persons: The New Protocol," (2000), <http://www.unodc.org/unodc/en/trafficking-protocol.background.html>.

girls are easy prey. Most of them already dream of El Norte. But the theater often ends as soon as the agent has the girl alone, when he beats her, drugs her or simply forces her into a waiting car.<sup>99</sup>

According to Nora Demleitner, however, the kidnapping of women represents the least likely scenario of human trafficking, as many women willingly leave their homes to join traffickers; it is the subsequent enslavement or coercion that constitutes trafficking.<sup>100</sup> She argues that kidnapped women are used as paradigmatic cases because “these women represent the innocent, the ‘true’ victim, a victim who did not choose to migrate illegally, let alone prostitute herself.”<sup>101</sup> The end result of portraying the referent of security as brutalized young women who are trafficked for sex and lack agency entirely is that a hierarchy of victims is created. Women who have chosen to work as sex workers, but not as sex slaves, do not garner the same kind of sympathy, and men and women trafficked for non-sex labor are easily relabeled “illegal immigrants.”<sup>102</sup> For instance, Europol Deputy Director Willy Bruggeman distinguishes between exploited, deceived, and kidnapped sex trafficking victims, arguing that only kidnapped victims “are sex slaves in the truest sense.”<sup>103</sup> Such narratives do not assist feminists in forcing the state to incorporate human rights concerns into countertrafficking policies. Moreover, this approach puts sex-trafficked women themselves at a disadvantage if they cannot portray their status as entirely involuntary or that the conditions of their exploitation were merely undesirable instead of horrifically brutal. Bindman elaborates:

People, including police officers, prosecutors and judges, can easily identify with women who comply to the stereotype of the naïve and innocent victim, unwittingly forced into prostitution. But the moment a woman has worked as a prostitute or wants to continue to do so, or even when she just stands up for herself, compassion turns into indifference or outright hostility. Common opinion holds that once a prostitute, a woman loses all her rights and is no longer entitled to protection against violence, exploitation, abuse, blackmail, and being held prisoner.<sup>104</sup>

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<sup>99</sup> Landesman, “The Girls Next Door.” For a critical view of Landesman, and his response, see Jack Shafer et al., “Assessing Landesman,” *Slate*, <http://www.slate.com/id/2094646/fr/nyt/>.

<sup>100</sup> Demleitner, “The Law at a Crossroads,” 264. The most common recruitment strategies focus not on kidnapping or abduction but on deceptive job advertisements and promises of employment. See Louise Shelley, “Human Trafficking as a form of Transnational Crime,” in *Human Trafficking*, ed. Maggy Lee (Devon, UK: Willan Publishing, 2007), 116–37; Ilse van Liempt, “Trafficking in Human Beings: Conceptual Dilemmas,” in *Trafficking and Women’s Rights*, Kevin Bales, *Understanding Global Slavery*, 142–43.

<sup>101</sup> Demleitner, “The Law at a Crossroads,” 264.

<sup>102</sup> Chapkis, “Trafficking, Migration, and the Law,” 930; Quirk, “Trafficked into Slavery,” 298–99.

<sup>103</sup> Bruggeman, “Illegal Immigration and Trafficking,” 5.

<sup>104</sup> Bindman, “An International Perspective on Slavery in the Sex Industry,” 77.



Such women fail both the test of innocence and the test of pain: Claudia Aradau explains that “raw physical suffering” is required to distinguish insufficiently “innocent” trafficking victims from illegal immigrants and prostitutes.<sup>105</sup> In other words, the “legal process may tend to declare any woman not fitting this childlike image—and most victims of unscrupulous traffickers will not conform to this model—as unworthy of support and protection.”<sup>106</sup> These stereotypes construct an idealized notion of trafficking victims that is applicable to a small subset of trafficked persons, effectively removing all who do not fit this construction from rights protections.

The definition of trafficking victims as naïve and innocent is tied up in a stereotyped assumption of the purity of white women and the impurity of women of color. Historical advocacy against international human trafficking—which was taken to mean the traffic in women for sexual exploitation—arose in the context of concern for the virtue of white women. Tales of white women kidnapped and forced into prostitution made their way from Europe to the United States at the turn of the twentieth century, prompting an international campaign against “white slavery.” The white slave trade was thought to center on virginal and naïve young white women who were deceived, kidnapped, or even sold into slavery by parents for the purpose of prostitution. Eileen Scully notes that during this time period, approximately 99 percent of sexual trafficking victims were women of color (including Jews, who were considered non-white). It was the relatively few women of European descent engaged in both voluntary and coerced prostitution, however, whose condition provoked widespread public outrage.<sup>107</sup> Feminists connect the panic regarding white slavery to “anxieties about changing gender, sex, class, and race relations at the turn of the century. The idea of a ‘white slave’ unconsciously spoke not only to the experience of the white working class laboring under harsh conditions of early industrial capitalism, but also to the racial fears of an increasingly ethnically diverse population.”<sup>108</sup>

A number of scholars connect contemporary trafficking discourses to the racially-charged “white slave panic.”<sup>109</sup> Some argue that human trafficking only rose to international prominence as an issue once again in the context of increasing numbers of white sex workers. Galma Jahic and James Finckelbauer note that the influx of trafficked women from Eastern Europe and the former Soviet Union during the early 1990s contributed to the resurgence

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<sup>105</sup> Claudia Aradau, “The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitization of Human Trafficking,” *Millennium Journal of International Studies* 33, no. 2 (2004): 262.

<sup>106</sup> Demleitner, “The Law at a Crossroads,” 273. See also Tyldum and Brunovkis, “Describing the Unobserved.”

<sup>107</sup> Scully, “Pre-Cold War Traffic in Sexual Labor and Its Foes,” 86.

<sup>108</sup> Chapkis, *Live Sex Acts*, 42. See also Jo Doezeema, “Loose Women or Lost Women? The Re-Emergence of the Myth of ‘White Slavery’ in Contemporary Discourses of ‘Trafficking in Women,’” *Gender Issues* 18, no. 1 (2000): 23–50.

<sup>109</sup> See Jacqueline Berman, “The Left, the Right, and the Prostitute: The Making of U.S. Antitrafficking in Persons Policy,” *Tulane Journal of International and Comparative Law* 14 (2005–06): 278.

of interest in human trafficking, particularly the so-called “Natasha Trade” in white women of Slavic origin.<sup>110</sup> They write, “Until it became possible to present the victims as like ‘one of our own,’ trafficking was a low priority. Unlike the women from Asia and Africa, who were women of color, the new trafficking victims were more likely to be recognized as just like ‘girls next door.’ The old image of white slaves was invoked, and this resonated with the developed countries of the West.”<sup>111</sup>

Furthermore, Doezenia finds parallels between the white slavery discourses of the past century and contemporary discourses about trafficked women of all colors. She argues that contemporary emphasis of trafficking victims’ lack of agency performs the same function as historic articulations of (white) victims’ purity and innocence, reproducing a “colonial gaze” that claims to protect women’s virtue but at the expense of recognizing their autonomy, sexual and otherwise.<sup>112</sup>

### FEMINISM, SECURITY, AND HUMAN TRAFFICKING

Feminist approaches to international human trafficking are essential for security scholars who wish to address the activity as a threat to states and people. Feminists have shown that traditional security approaches to human trafficking are inadequate, not only on moral grounds, but on pragmatic ones as well. Perhaps the most significant issue feminists have raised is the question of who or what is being secured. If the referent object of security is the state, then countertrafficking will focus primarily on border control policies and therefore will consider trafficked persons to be criminals rather than victims. Not only does this further threaten the human rights of trafficking victims, it may also lead to a victim’s re-trafficking upon being deported into the same situation. If the referent of security is broadened to include trafficked individuals, then countertrafficking would incorporate social services and human rights protections, which should make victims less vulnerable in the future.

Both abolitionist feminists and their critics are concerned with the security of people (women especially) who are the victims of human trafficking. Abolitionist feminists primarily address prostitution, conflating human trafficking with sex trafficking and assuming that the elimination of prostitution will both end the need for sex trafficking and promote gender equality more

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<sup>110</sup> Jahic and Finckenauer, “Representations and Misrepresentations of Human Trafficking,” 26. See, for example, Hughes, who writes, “As a result of trafficking, Russian women are in prostitution in over 50 countries. In some parts of the world, such as Israel and Turkey, women from Russia and other republics of the former Soviet Union are so prevalent, that prostitutes are called ‘Natashas’” Hughes, “The ‘Natasha’ Trade: The Transnational Shadow Market of Trafficking in Women,” 629. See also Donna M. Hughes, “The ‘Natasha’ Trade: Transnational Sex Trafficking,” *National Institute of Justice Journal*, no. 246 (2001); Victor Malarek, *The Natashas: Inside the New Global Sex Trade* (New York: Arcade Publishing, 2004).

<sup>111</sup> Jahic and Finckenauer, “Representations and Misrepresentations of Human Trafficking,” 26.

<sup>112</sup> Doezenia, “Loose Women or Lost Women,” 37–38.

generally. Their critics point out that this approach is problematic in its theoretical and policy implications. Theoretically, this approach risks reifying gender stereotypes about women's purity and women's helplessness. Practically, it ignores the many people trafficked for reasons other than sex while also failing to account for sex workers' rights. Still, the abolitionist feminist approach focuses on a number of important elements in human trafficking. These include traffickers' frequently deceptive and abusive recruitment strategies, the terrible human rights abuses trafficked people face at the hands of their traffickers and host governments, and the disproportionate effect that human trafficking has on women.

The critics of the abolitionist approach offer important insights as well. First, they point out that not all persons who are trafficked—and in fact not all women who are trafficked—are trafficked for the purposes of sexual exploitation. The international labor market is a significant motivation for trafficking and a significant destination for trafficked persons. Critics of abolitionism also reject the conflation of trafficking and prostitution because, unlike abolitionists, they see it as possible for women to consent to doing sex work. They argue for an alternative solution to human trafficking that involves legalizing prostitution and establishing legal frameworks to ensure human rights protection for all workers, including sex workers and those in low-wage and low-status jobs.

This impasse seems, at first glance, irreconcilable, and, perhaps as relates to the moral status of prostitution, it is. Yet whatever specific moral and political stance is taken in regard to prostitution, I argue that it is crucial for scholars, activists, and policy makers not only to protect and empower trafficked persons but to consider the implications of how trafficked persons are produced as subjects. Greater attention to the social construction of trafficked persons, in addition to greater attention to trafficked persons overall, is necessary because of the effects such representations have in perpetuating sexist and racist stereotypes that harm trafficked and otherwise marginalized people. More work must be done on the effects of representing trafficked persons in various ways and on how they might be considered instead in a manner that empowers rather than further exploits them. Tickner has warned that "... Notions of security that rely on protection reinforce gender hierarchies that, in turn, diminish women's (and certain men's) real security."<sup>113</sup> The issue for future analyses of human trafficking, explicitly feminist or otherwise, is to discover how we might escape this cycle.

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<sup>113</sup> Tickner, *Gendering World Politics*, 62.