

# *Trafficking – a demand led problem?*

*A multi-country pilot study*

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## ***1. Introduction***

Part I of this report sets out to review current debates and existing research on “the demand side of trafficking”. This task is complicated by two sets of problems. First, the myriad definitional and political difficulties that surround the issue of trafficking mean that there is no clear body of evidence based on a consistent definition of the term “trafficking” to review. Second, questions about supply and demand cannot be meaningfully separated in the analysis of any given market, nor can markets be discussed in abstraction from the broader social, economic, political and institutional context in which they operate. All labour and consumer markets are socially and politically constructed in the sense that what people buy and what they sell is determined, to a large extent, by a complex set of structural and ideological factors. Moreover, the state plays a crucial role in shaping what is bought and sold and by whom, and on what terms. In other words, to explore “the demand side of trafficking” is not simply to enquire about the individuals who exploit or consume the labour/services of trafficked persons, but also to question the way in which states – through a combination of action and inaction – construct conditions under which it is possible or profitable to consume or exploit such labour/services.

The review of research and debate is structured as follows. The first section addresses definitional, political and methodological difficulties associated with research and debate on “trafficking”. Section 2 considers general issues raised by attempts to analyse “the demand side” of trafficking. Sections 3 and 4 examine existing evidence on the relationship between particular forms of demand and the phenomenon of trafficking in two sectors: commercial sex and domestic work. The final section concludes with a brief discussion of the policy dilemmas posed by the idea of “the demand side of trafficking” and identifies some key areas in which further work is required.

### ***The Politics of “Trafficking”***

Trafficking in persons (which in the most general of terms is understood to involve the transportation of persons by means of coercion or deception into exploitative or slavery-like conditions) is currently viewed as a serious problem by a wide range of different agencies, organisations and lobby groups. And yet different groups identify trafficking as a problem for very different reasons and often have very different political agendas with regard to the issue. Three broad groupings are of particular significance for debates on trafficking:

- Governments. Their interest in trafficking is often grounded in concerns about irregular immigration and/or transnational organised crime, which are viewed as a threat to national security. National security and immigration (and associated financial transactions) have been still more explicitly and closely linked post September 11;
- Feminist “abolitionist” NGOs. Such organisations place trafficking high on their political agenda because they view trafficking as central to, and emblematic of, the increasing globalisation of female sexual exploitation;
- Migrant workers’ and other labour organisations, child rights’ NGOs, sex workers’ rights activists, and other human rights agencies and NGOs. They approach trafficking on the basis of more general concerns about a range of human rights abuses and abusive working conditions to which particular groups are especially vulnerable.

Because the various groups that are involved in debates on trafficking view the issue through the lens of different political concerns and priorities, attempts to produce a precise definition of “trafficking in persons” and to identify appropriate policy responses to it have provoked, and continue to provoke, much controversy. There are two key strands to the “trafficking” debates: one concerns tensions between governments’ obligations to protect and promote human rights, and their desire to restrict irregular forms of migration (which is often regarded as a matter of state sovereignty); the other centres on conflicting views of the relationship between trafficking and prostitution.

### *Crime Control, Immigration Policy, Trafficking and Human Rights*

States have many different and often competing agendas concerning trafficking. However, from a governmental and intergovernmental perspective, trafficking has been framed as a crime control and prevention issue. It is linked to transnational organised crime through the Vienna process and the United Nations’ Protocol to Prevent, Suppress and Punish Trafficking in Persons, and it is also linked to violations of immigration laws. Governments clearly have many important and legitimate concerns about transnational crime and about immigration. Yet crime and immigration are both also widely recognised as issues that can be manipulated by politicians and other actors in pursuit of less than altruistic ends. Beare and Naylor (1999, p1) have observed that, ‘The mention of the words “organized crime” has the power to draw the press, win votes, acquire law enforcement resources, gain public support for various legislative or enforcement crackdowns’. To mention “organized crime” alongside “illegal immigration” is a still more potent and populist formula. Fears and prejudices concerning “illegal immigration” are given fresh basis (the threat is not just that society will be “swamped” by “aliens”, but also overtaken by “mafia” and other hardened criminals), and clampdowns on irregular migration are justified and humanised (rounding up, detaining and deporting undocumented migrants takes on new meanings when presented as rescuing, rehabilitating and reinserting the victims of organised crime).

As a result, those who view trafficking through the lens of concerns about human rights issues are often suspicious of governments' and law enforcement agencies' interest in trafficking. So, for example, it has been argued that European governments' responses to trafficking and smuggling are often part of the problem, rather than the solution, and that "the direction of current policy risks not so much solving the problem of trafficking, but rather ending the right of asylum in Europe, one of the most fundamental of all human rights" (Morrison, 2000, p29, see also Gallagher 2001 and 2002). Meanwhile, the Asian Migrant Centre notes:

It must be emphasised that migration is the general phenomenon, and trafficking is only a mode of migration. Over-emphasizing trafficking and taking it out of context (in relation to migration) is strategically counter-productive in the fight for human rights because: (a) *trafficking puts migration in a crime control, crime prevention context, rather than talking about migrants' human rights first and then talking about trafficking in the context of human rights; and (b) trafficking is being used by governments as a vehicle to develop more restrictive approaches to migration in general* (AMC, 2000, p18, original emphasis).

While state actors often hold that trafficking can be combated through tougher immigration controls and enforcement, many non-state actors argue that the reverse is true. So, for example, where the Italian Foreign Minister told a press conference during the Central European Initiative meeting in Trieste in November 2001 that "Cracking down on illegal immigration is one of our goals. Strengthening our efforts against human trafficking is essential in the fight for fundamental human rights", the International Labour Office argues that restrictive migration policies actually fuel markets for smuggling and trafficking of migrants (ILO, 2002).

Although many NGOs fear that governments could "hijack" or have already "hijacked" the issue of trafficking in order to pursue their own domestic agendas concerning asylum and immigration, governments' interest in the topic also means that trafficking is now a focus of national and international concern and debate. This in turn means that resources and media attention are increasingly available to those working on trafficking issues, and this provides human rights and child rights NGOs with an incentive to develop programmes and initiatives in this area. "Trafficking" thus becomes a vehicle for pursuing more general human rights concerns (for instance, about the commercial sexual exploitation of children, or child migration and labour, or the health of migrant women working in prostitution, and so on).

### ***Trafficking and International Debates on Prostitution***

Debate about the relationship between trafficking and prostitution reflects the deep divisions that bedevil international debate on prostitution more generally. On one side of the divide stand those who might be termed "feminist abolition-

nists". They argue that prostitution reduces women to bought objects, and is always and necessarily degrading and damaging to women. Thus, they recognise no distinction between "forced" and "free choice" prostitution, and hold that in tolerating, regulating or legalizing prostitution, states permit the repeated violation of human rights to dignity and sexual autonomy. All prostitution is a form of sexual slavery, and trafficking is intrinsically connected to prostitution (Barry, 1995, Jeffreys, 1997, Raymond 2001). From this vantage point, measures to eradicate the market for commercial sex are simultaneously anti-trafficking measures, and *vice versa*. On the other side of the divide stand feminists who adopt what might be termed a "sex workers' rights" perspective. They reject the idea that prostitution is intrinsically or essentially degrading, and treating prostitution as a form of service work, they make a strong distinction between "free choice" prostitution by adults and all forms of forced and child prostitution. Whilst they believe the latter should be outlawed, they hold the former to be a job like any other. Since sex workers' rights feminists view free choice prostitution as a mutual voluntary exchange, they see state actions which criminalize or otherwise penalise those adults who make an individual choice to enter prostitution as a denial of human rights to self determination (NSWP 1994, Alexander 1997). They also strongly challenge feminist abolitionists' simple equation of the demand for trafficking and the demand for prostitution. From this standpoint, it is the lack of protection for workers in the sex industry, rather than the existence of a market for commercial sex in itself, that leaves room for extremes of exploitation, including trafficking. The solution to the problem thus lies in bringing the sex sector above ground, and regulating it in the same way that other employment sectors are regulated.

Debate between the "abolitionist" and the "sex workers' rights" lobbies is often heated and bitter, with each side accusing the other of using the issue of trafficking as a vehicle to pursue their own particular political ends with regard to prostitution.

### **Trafficking: Definitional Problems**

Because so many different agencies, organisations and lobby groups seek to address such radically different concerns and agendas through a focus on "trafficking", it has proved remarkably difficult to obtain consensus on a precise and workable legal definition of the term (Ucarer 1999). These definitional problems are made particularly intractable by the fact that "trafficking in persons" is used as an umbrella term to cover a range of actions and outcomes, rather than a single, unitary act leading to one specific outcome. Viewed as a process, trafficking can be said to entail several phases – recruitment, transportation (which could be across several countries), and control in the place of destination. Different groups, agents or individuals may be involved in different phases of the process, and can organise recruitment, transportation and control in a variety of different ways. There is thus immense diversity between and within trafficking systems. Matters are complicated further by the fact that the constituent elements of trafficking may also be deemed to constitute other separate or related phenomena. For instance, the condition of slavery is one of the outcomes included in



most definitions of trafficking, but not all enslaved persons are “victims of trafficking”. Meanwhile, the constituent parts of trafficking may themselves present definitional problems within international law. There is no consensus regarding the definition of “servitude”, for example.

The next problem is that whilst trafficking as a whole, and some of its possible elements (such as slavery) may be universally deemed to constitute human rights violations and/or crimes, other actions and outcomes that can fall under the umbrella of trafficking may, in other contexts, be considered legal and/or unproblematic in terms of human rights. For instance, exploitation within prostitution can be an outcome of trafficking, but prostitution is regulated as a legitimate economic sector in many countries rather than universally criminalized or treated as a human rights abuse. Moreover, cases of trafficking do not always fit within conventionally and legally accepted boundaries between forced and voluntary migration, and between legal and illegal migration. Defining trafficking thus involves making decisions about which particular actions and outcomes, and in what particular combination, should be included under its umbrella.

Until recently, there has been no international agreement as to the proper legal definition of trafficking. However, in November 2000, the UN Convention Against Transnational Organised Crime was adopted by the UN General Assembly, and with it two new protocols – one on smuggling of migrants and one on trafficking in persons. The latter protocol defines trafficking as:

- a) The recruitment, transportation, transfer, harbouring 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 labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;
- d) “Child” shall mean any person under eighteen years of age.

Since the protocol makes particular and special reference to prostitution and sexual exploitation, but simultaneously places a responsibility upon governments to protect the human rights of persons trafficked into sectors other than the sex industry, it can be read as taking a neutral stand on “the prostitution debate”. This semblance of neutrality is achieved at the expense of precision, however. So, for instance, the protocol does not define the phrase “exploitation of prostitution of others or other forms of sexual exploitation” because “government delegates to the negotiations could not agree on a common meaning” (GAATW

2001, p31). Nor does the protocol specify precisely what is meant by “other forms of coercion”, or “abuse of power or of a position of vulnerability”, although in the *travaux préparatoires* a note states that phrase “abuse of a position of vulnerability is understood to refer to any situation in which the person involved has no real and acceptable alternative but to submit to the abuse involved” (Raymond 2001, p5). The absence of clarity on these issues may be pragmatic in the sense that it means the trafficking protocol can be adopted “without prejudice to how States Parties address prostitution in their respective domestic laws” (Interpretative note 64 to the Protocol), but it also allows space for conflicting interpretations of what does and does not constitute trafficking. Some NGOs hold that the concept of trafficking, as defined in the protocol, cannot be applied to adults who work freely and voluntarily in the sex industry. Others rely on a broad interpretation of the idea of “abuse of a victim’s vulnerability” to construct any migrant prostitute who has relied upon a third party or parties in the course of moving to work in the sex trade as a victim of trafficking.

The protocol’s failure to explicitly define difficult terms such as “exploitation”, “coercion”, “vulnerability” and so on is equally problematic for those who are concerned with persons trafficked into sectors other than the sex industry.

### *Trafficking and Legally Sanctioned Systems of Immigration*

Most definitions of trafficking, including that provided by the protocol, attempt to distinguish trafficking from legal systems of migration and from smuggling through an emphasis on the use of force, coercion, deception, and through reference to “exploitation”. Trafficking is generally presented as a subset of illegal migration. However this relies on an over-simplistic and unworkable distinction between “legal” and “illegal” migration. In practice, even legal migratory processes often have illegal elements (illegal payments for facilitation of valid passports for example), and it is also the case that trafficked persons can enter a state legally. For instance, women may enter as “wives” and be forced into work, including in prostitution, and not allowed to keep their wages (Ban Ying 1994). Legal systems of labour migration are not immune from abuse and exploitation either. There are cases in which legally regulated employment agencies have recruited and transported workers through means of deception.<sup>1</sup> Furthermore, the fees of perfectly legal recruitment agencies are often so high that would-be migrants have to borrow money in order to pay them, and in some cases, such loans are offered by the recruitment agencies themselves. This effectively constructs a type and degree of dependency between migrants and third parties that would almost certainly be regarded as coercive if organised within the informal economy and/or by criminal organisations.<sup>2</sup>

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1 One example of this is provided by the case of Filipino workers who migrated to work in private nursing homes in Britain in 2001, believing that they would be employed as highly skilled specialist nurses. On arrival in Britain, they not only found that they were expected to work as auxiliary care assistants, performing basic cleaning and physical caring duties, rather than nurses, but also that they were to be charged exorbitant rates for their accommodation, and that these charges would be deducted from their salaries. They were not able to freely retract from the employment contract, as they were told that they would have to repay the ‘costs’ involved in their transport (see also Lazaridis 2001).

2 Skeldon (2000) observes that in some instances, the cost to migrants of legal recruitment is significantly more than the amount charged by traffickers.

Next we should note that migrant workers' rights organisations have recently reported a "rise in the incidents of unpaid wages, confiscated passports, confinement, lack of job training and even violence" against migrant workers who are legally present in a number of countries under various work permit schemes (AMC, 2000). Very often workers are vulnerable to such abuses precisely because they have migrated legally under work permit schemes that tie them to a named employer. Such schemes make it virtually impossible for workers to change their employer or retract from the employment contract without consequence for their immigration status, even if they discover that have been deceived as to terms and conditions of work by the recruiting agents. To retract from such employment contracts would also often lead to demands to repay recruitment and travel costs to the agents who arranged their transport, or leave the worker unable to recoup payments already made to such agents.

The protocol's attempt to define trafficking through reference to concepts such as "exploitation", "deception" and "consent" also presents more general problems in terms of distinguishing trafficking from legally tolerated employment contracts (also from legally tolerated forms of exploitation of women and children within families). Questions about what constitutes an exploitative employment practice are much disputed – indeed they have historically been, and remain, a central focus of the organised labour movement's struggle to protect workers. There is variation between countries and variation between economic sectors in the same country in terms of what is socially and legally constructed as acceptable employment practice.<sup>3</sup> In the absence of a global political consensus on minimum employment rights, and of cross-national and cross-sector norms regarding employment relations, it is extremely difficult to come up with a neutral, universal yardstick against which "exploitation" can be measured. The protocol definition of trafficking thus leaves open questions about precisely how exploitative an employment relation has to be before we can say that a person has been recruited and transported "for purposes of exploitation". Likewise, we need to ask just how deceived a worker has to be about the nature and terms of the employment prior to migrating before s/he can properly be described as a "victim of trafficking"? There are numerous different elements to the employment relation: hours of work, rates of pay, job content, work rate, working practices, living conditions, length of the contract, and so on. Is it enough for a worker to be deceived about just one of these elements by a recruiter, or must s/he be entirely duped about every aspect of her work in order to qualify as a trafficked person?

It would be naïve to imagine that migrant workers can be divided into two entirely separate and distinct groups – those who are trafficked involuntarily into the misery of slavery-like conditions in an illegal or unregulated economic sector, and those who voluntarily and legally migrate into the happy and protected world of the formal economy. Violence, confinement, coercion, deception

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3 For example, in India, an employer who expects her live-in domestic worker to sleep in a cupboard or on the kitchen floor, and to get up in the middle of the night to serve guests should the employer decide to return late with friends, may not be regarded as transgressing legal or social norms regarding terms and conditions of domestic work. An employer who did the same thing in Sweden would, by contrast, be widely regarded as behaving in an exploitative fashion towards her domestic worker. Meanwhile, in India, a university vice chancellor who required a professor, under threat of dismissal, to sleep on his kitchen floor and to provide tutorials at any hour of the day or night would doubtless be considered an abusive and exploitative employer.

and exploitation can and do occur within both legally regulated and irregular systems of migration and employment. So far as definitions of trafficking are concerned, the problem is further complicated by the fact that these abuses can vary in severity, which means they generate a continuum of experience, rather than a simple either/or dichotomy. At one pole of the continuum, we can find people who have been transported at gunpoint, then forced to labour through the use of physical and sexual violence and death threats against them or their loved ones back home. At the other pole, we can find people who have not been charged exorbitant rates by recruiting agencies or deceived in any way about the employment for which they were recruited, and who are well-paid and work in good conditions in an environment protective of their human and labour rights. But between the two poles lies a range of experience. Ideas about the precise point on this continuum at which tolerable forms of labour migration end and trafficking begins will vary according to our political and moral values.

### *Trafficking and Smuggling*

If the boundary between trafficking and some migrants' experiences of legal migration is indistinct, that between smuggling and trafficking is yet more clouded and ambiguous, although it is one upon which policy makers are increasingly dependent. This distinction centres on questions about a) whether the migrant consented to irregular entry; and b) the relation of the trafficker/smuggler to subsequent exploitative working conditions. Trafficking requires the continued exercise of control over migrants once they have moved, while the role of the smuggler is simply to facilitate border crossing. The two protocols assume that smuggling and trafficking can be distinguished through reference to where and how profit is extracted by third parties, and through reference to the specific intentions of the third parties who recruit and transport them. So, for instance, profits from the process of smuggling are said to come merely from the movement itself, whereas:

The transport of trafficked persons is inextricably linked to the end purpose of trafficking. Recruitment and transport in the trafficking context is undertaken with the intent to subject the victim of the coerced transport to additional violations in the form of forced labour or slavery-like practices. Without this linkage, trafficking would be legally indistinguishable from the individual activities of smuggling and forced labour or slavery-like practices (Baro 2001, see also Gallagher 2002).

This implies some kind of active conspiracy between the third parties who profit from recruitment and transportation, and those who exploit the trafficked person's services/labour at the point of destination. It thus reflects a particular concern with trafficking as the outcome of organised and purposive action on the part of third parties. Certainly there are cases that conform to this narrow definition, for there are some criminals who cooperate with one another in, and jointly profit from, a process that involves recruitment, transportation and

exploitation. There are also some employers who send agents in their pay to “recruit” people from other regions or countries for purposes of exploitation. But there are many other cases in which the agents who recruit and transport people into forced labour or slavery-like conditions have no established relationship with the third parties who ultimately orchestrate and profit from the labour/services of the people so transported. Instead, they use deception or other means of coercion to entice or pressure women, men and/or children to accompany them to places where there is a demand for labour, and then collect a fee from any employer who happens to be looking for “workers”. In these cases, recruiting agents profit from the movement of persons, and since the subsequent condition of those persons is a matter of indifference to them (they would get paid regardless as to whether the people they move are abused and exploited, or free and well paid), they cannot be described as having an intent to subject the victim of the coerced transport to additional violations in the form of forced labour or slavery-like practices. But if “smuggling” is understood to refer to voluntary and consensual partnerships between migrants and those who facilitate their migration, then this latter type of recruiting agent cannot properly be described as a “smuggler”.

Likewise, there are those who offer to facilitate migration but encourage migrants to consent to massively indebted themselves by deceiving them about earning opportunities and working conditions in the point of destination. Once transported, the migrant finds it impossible to repay the debt except by selling themselves into slavery-like conditions, or by working in prostitution even though they initially consented to take on the debt because they had been led to believe that they could earn enough to repay it from some other occupation. Again, the person who facilitates migration profits from the movement, but does not directly organise or control the exploitation of the migrant’s services/labour, and so falls short of being a “trafficker” according to some readings of the trafficking protocol.

The two protocols assume a neat line of demarcation between voluntary and consensual, and involuntary and non-consensual processes of migration. Such a distinction is widely regarded as deeply problematic with reference to refugees and economic migrants, and it is equally fanciful in relation to the issue of trafficking. Indeed, once trafficking and smuggling are recognised as processes, the idea of “consent” is extremely problematic since individuals can volunteer to enter the process and then find themselves unable to retract however much they want to, or conversely, they can be coerced into entering the process but then proceed voluntarily. The trafficking/smuggling distinction represents a gaping hole in any safety net for those whose human rights are violated in the process of migration. The two protocols allow states to divide deserving “victims of trafficking” from undeserving “partners in smuggling” without actually providing “any guidance on how trafficked persons and smuggled migrants are to be identified as belonging to either of these categories” (Gallagher 2002, p27).

Some would further argue that the trafficking/smuggling distinction is underpinned by and reproduces a hugely problematic model of gender difference. It is frequently asserted that most smuggled persons are men, whilst most trafficked

persons are women and children, and yet this claim is not and cannot be supported by empirical evidence since there are no reliable empirical data on the numbers of trafficked and smuggled persons (see Section 1.3). Instead, it seemingly rests upon a gender essentialist model of social relations, within which only men are imagined to be capable of making an independent and voluntary decision to migrate or to enter into the commercial ‘partnerships’ that facilitate migration. Women, by contrast, are constructed as the passive victims and objects of third parties within the migration process (see Agustín 2002, Murray 1998, Doezema 1999). The fact that the protocol on trafficking places adult women together with children as categories of person requiring special protection is also considered by some to simultaneously infantilize women and negate or minimise the human rights violations perpetrated against migrant men.

### **Methodological Problems**

It is notoriously difficult to gather accurate numerical data on any criminal activity and it is also extremely difficult to gather accurate figures on migration. Methodological problems are greatly intensified when the illegal activity under investigation also intersects with a range of other phenomena in an ill-defined way. As a result, it is hard to place any credence whatsoever in existing official and unofficial data on the numbers of trafficked persons, smuggled migrants and irregular migrants. Certainly, the most commonly cited statistics on trafficking have not been gathered using the definition of trafficking provided in the UN protocol, and are in any case ‘at best crude estimates’ (Salt et al 2001, p31). These crude estimates are based upon a series of extrapolations and assumptions, rather than “hard” facts about the numbers of people involved.<sup>4</sup> So far as claims that most trafficked persons are women and children and that most smuggled persons are men are concerned, it is worth noting that the gender of victims of trafficking is only systematically recorded by a minority of European Union governments that contribute data on trafficking to the Inter-Governmental Consultations, and that trafficking statistics are rarely disaggregated by age (Morrison 2000, p35, Boonpala and Kane 2002). It is also the case that some

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<sup>4</sup> The classic example concerns the claim that trafficking is a US\$5–7 billion global business. This figure actually rests on a string of untested and untestable assumptions and yet this is generally forgotten in debates on trafficking where guesstimates are so often and so widely quoted that they come to be accepted as unassailable truths (Salt et al, 2000). Salt et al observe that: ‘The... figure... was produced in 1994 by Jonas Widgren, drawing on the knowledge, resources and links of ICMPD in Vienna. Despite the uncertainties surrounding its calculation, the figure has never been seriously challenged... He estimated that in 1993 there were 250–350,000 illegal migrant entries into Western Europe. The figure was calculated on the basis of extrapolations of how many illegal migrants reached their goal as a reflection of the known numbers of migrants apprehended when seeking to transit through the “green” borders of intermediate countries on their way to their final goal. Analysis of border control data showed 60,000 apprehensions. Widgren then estimated, based on discussions with border control authorities, that at least 4–6 times that number got through undetected, although there is no indication in the paper of how this multiple was derived. In addition to illegal migrants there were, at the time, 690,000 asylum-seekers in Western Europe of whom he suggested about half were not in need of protection. He further suggested that 15–30 per cent of illegals “could be estimated” to have used the services of traffickers during some part of their journey... In addition, 4–5,000 traffickers were caught by police in various European states in 1993, and 15–25,000 migrants were caught being trafficked, giving 4–6 persons per trafficker. Widgren then used these figures to calculate the financial scale of the business, assuming an average of US\$2000 to get to Western Europe and US\$5,000 to the USA. From this, it is possible to calculate that trafficking syndicates operating in Western Europe would have a total income somewhere between US\$100 million and US\$ 1 billion in 1993 alone. Globally the sum was estimated at US\$ 5–7 billion’ (Salt et al, 2000, p31–32)



statistics have been based upon figures pertaining to trafficked persons presenting themselves for legalisation, or denouncing their traffickers. Again, such data should be treated with caution in view of the immigration advantages that certain states give to trafficked women (some rights to stay, claim benefits, and so on).<sup>5</sup>

More generally, the existing body of evidence on trafficking is unsatisfactory because it is an amalgam of information from different sources, collected in different ways, at different times, using different definitions of trafficking, by different agencies for very different reasons. Different political concerns about trafficking lead to very different research agendas - the questions that most interest national criminal intelligence agencies and immigration authorities, for example, are not necessarily identical to those that preoccupy feminist abolitionists, which may in turn differ from the questions that concern, say, migrant workers' rights organisations. In the absence of a standard definition of the term trafficking, the findings of individual studies are rarely comparable, and this further undermines the reliability of global claims and estimates based on several different single country and/or regional studies. Another problem is that the phenomenon of trafficking for prostitution has received much more research attention than has trafficking into other sectors. Furthermore, research and debate on human rights violations in other sectors have not always applied the concept of trafficking to abuses that would, if occurring within the sex industry, almost certainly be classified as such.<sup>6</sup> The fact that research on *trafficking* is so often research on *trafficking for prostitution* means that it is the latter that attracts media interest and occupies centre stage in terms of policy concern. This serves to further entrench the idea that prostitution and trafficking are analytically and empirically conjoined. Of course, it may well be the case that trafficking for prostitution really is a more numerically significant and more serious global problem than trafficking into other sectors. However, because there has been so much less research on trafficking for agriculture, manufacturing industries, mining, construction, domestic work, restaurant work, and so on, we have no way of empirically supporting the assertion that trafficking is more intimately linked to prostitution than it is to any other economic sector.

Just as the emphasis on the relationship between trafficking and prostitution has exerted an influence on research agendas, so governments' overriding con-

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5 For example, Article 18 of Italy's most recent immigration legislation (Law n.40/98) allows undocumented migrants to regularise their position through a special residence permit for reasons of social protection. Although the Article does not mention 'trafficking' as such, it does refer to 'situations of violence' or 'serious exploitation' of a foreign person (adult or child), and has mainly been used to regularise the immigration status of foreign women working in prostitution (out of 580 residence permits issued in the year 2000, 537 were granted to young migrant women working in prostitution). However, to obtain such permits, it is necessary for the recipient to provide the police with the name of the individual who is exploiting or abusing her, and co-operate in the legal proceedings against them. It is believed that the law has been widely used by people involved in the sex trade (mostly prostitutes themselves or middle people and small time criminals) as a way in which to eliminate competition and/or settle scores, and estimates of the numbers of trafficked persons or the number of traffickers based on such denunciations are thus far from reliable.

6 For example, reports on the exploitation of some thousands of young Chinese, Filipino, Thai and Bangladeshi women working in textile sweatshops in Saipan (part of the Northern Mariana Islands, a U.S. Commonwealth in the South Pacific) use the terms 'indentured servitude' and 'peonage', but rarely invoke the concept of trafficking even though many workers are known to have been charged exorbitant 'recruitment' fees, deceived about pay and conditions, required to sign 'shadow contracts' waiving basic human rights (including the freedom to date or marry), and subject to lockdowns or curfews. Complaints about conditions have been met with 'threats of termination, physical harm and summary deportation' (Sweatshop Watch, 1999). By the same token, reports of this type of abuse within the garment industry seldom feature in the literature on trafficking.

cern with trafficking as an aspect of illegal immigration and/or a feature of organised crime has deflected attention from questions about the relationship between trafficking and legal systems of labour importation. Despite extensive reports of violations against documented workers that seemingly fit the protocol's definition of trafficking, research and debate on trafficking has focused far more heavily on the abuses that take place in the context of the shadow/illegal economy than on those that take place within legally recognised and regulated systems of labour importation.

### ***The Trouble with Trafficking***

Given the political, definitional and methodological problems that have been described thus far, it is worth asking whether the term “trafficking” actually adds anything to our understanding of the processes and practices that constitute or contribute to human rights’ violations in the contemporary world. Does the concept of “trafficking” help us to identify and combat human rights abuses that would otherwise go unrecognised? Let us take the classic example of a teenage girl who is “befriended” by an older man who seduces her into believing that he can find her well paid work in a bar or restaurant overseas, then takes her illegally across a border where he sells her to a partner in crime (a pimp or brothel owner), who confiscates her documents and uses physical force to compel her to prostitute. In this example, the virtue of the concept of trafficking is that because it recognises the process to which she has been subjected as more than the sum of its parts (deception, abduction, false imprisonment, assault, rape, slavery-like employment practices, etc.), it allows us to identify the man who befriended and betrayed the girl, and all those who colluded with him along the way, as fully implicated in her abuse. It is also asserted that women and children feel more trapped and less able to resist “when the criminal organisations control the whole chain from recruitment, through transportation to the concrete sex exploitation” (EC Justice and Home Affairs 2001, p3).

And yet because the stories of many women and girls who find themselves confined/trapped and exploited in prostitution and other sectors do not entirely match this classic model of “trafficking”, it is also dangerous to attach special significance to abuse arising from a process that is more than the sum of its parts. This is because what happens within the migratory process, and what happens at the point of destination represent two different, though sometimes overlapping, continuums of experience. Though a range of different forms of deception, force and exploitation can occur in either or both these fields of experience, the concept of trafficking focuses our attention on situations in which abuses at the point of destination are linked to the use of force or deception within the migration process. This may sometimes be important from a crime control perspective, but from the viewpoint of the individual who is subject to exploitative and slavery-like practices, it makes precious little difference whether her exploiter is in cahoots with the person who recruited her or not, or whether she entered the country through legal or illegal channels, or indeed whether she is being abused in a distant region or land, or in her own home town. The point, for her, is that



she cannot quit, is denied basic freedoms, is not getting paid, is forced to live and work in bad conditions, has no control over her work pace, hours of work or job content, and/or is subjected to physical violence or its threat.

The risk is that the concept of trafficking will deflect attention from this point, and encourage the construction of moral hierarchies as well as practical and legal barriers between “deserving”, “less deserving” and “undeserving” causes and victims. How, for example, does the concept of trafficking speak to the experience of those who make their own way across a border to seek work, and subsequently find themselves subject to slavery-like practices by an abusive employer? What happens to those who agree to a work out a period of indenture in another country because even an extremely exploitative labour contract represents an improvement to their current living and working conditions? What happens to those who are exploited and abused in their own region or town of origin? Where does a woman who is raped or otherwise sexually exploited by a smuggler turn for justice or support?

Because international debates on “trafficking” have been so firmly situated in the context of concerns about organised criminal involvement in international and internal migration, and because they have conflated two fields of experience that are not always or necessarily conjoined (exploitation and abuse within irregular migration and exploitation and abuse at the point of destination), the dominant discourse on “trafficking” allows both national and international policy-makers and agencies room for a certain amount of doublespeak. When asked whether their primary concern is the breaching of immigration controls, or the breach of migrants’ human rights in transit and at the point of destination; or whether they seek to combat the illegal movement of people, or traffickers, or the exploitative and abusive practices to which trafficked persons (among others) are subject; it is possible for them to answer that they are equally concerned with all of these alternatives. This obscures the fact that a) policies designed to control irregular forms of migration can actually encourage, permit or exacerbate violations of migrants’ human rights, and b) policies that focus on the prevention of illegal movements of people do nothing to address the factors that make it possible for employers and others to engage in exploitative and slavery-like practices at the point of destination.

## 2. The “Demand Side” of Trafficking?

### **Mapping Demand**

The very serious definitional, methodological and political problems surrounding the term trafficking make it extremely difficult to analyse or review research and debate on the demand for *trafficked* persons’ labour or services. If UN protocols give state actors no clear guidance on how to distinguish between trafficked persons and smuggled migrants, we can hardly expect that researchers investigating the abuse and exploitation of migrants in various sectors have made a systematic distinction between trafficked and smuggled persons, or even between legal and irregular migrants. Furthermore, there is no reason to assume that individuals who wish to exploit others are only or specifically interested in trafficked persons. It is hard to imagine an abusive plantation manager or sweatshop owner turning down the opportunity to subject a worker to forced labour or slavery-like practices because s/he is a “smuggled person” rather than a “victim of trafficking”, and harder still to imagine a client refusing to buy the sexual services of a prostitute on the same grounds. It makes more sense to assume that the niceties of international and national law on trafficking, and the details of a person’s journey into vulnerability and unfreedom, are irrelevant to those who exploit or consume their labour/services.

In other words, questions about the demand for trafficked persons’ labour/services are analytically and temporally indivisible from more general questions about the demand for the labour/services of all those who are unable to freely retract from an exploitative situation because they are tied to their exploiter through some form of non-economic compulsion.<sup>7</sup> Because it is impossible to properly isolate evidence on trafficked persons from that on other categories of unfree persons, our review of research and debate on the “demand-side of trafficking” is situated within a more general exploration and analysis of demand for the labour/services of “exploited persons”. It would take a book of several volumes to summarise the evidence on patterns of demand for such persons in the contemporary world, and what follows is necessarily a brief and superficial overview. It does nonetheless show that in all regions of the world, the labour/services of trafficked and otherwise unfree persons are exploited or consumed by actors in three sectors: employers in small or large enterprises in the legally recognised economy (sometimes also their clients); those who organise money-making activities in the informal economy (sometimes also their clients); and those wishing to consume labour/services in the “private” realm of the household.

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<sup>7</sup> Their inability to freely leave the exploitative situation may be because they have been sold or tricked into forced labour or slavery-like conditions by a trafficker. But it could equally be that they have migrated through legal channels, yet are unable to retract because their employer (or other exploiter) has confiscated their passport, withheld their wages, or uses physical force or threats to prevent them from quitting. Alternatively, they may be locked into a relationship with their exploiter through debt, through fear of arrest and deportation for immigration offences if they complain about their conditions or attempt to leave, or through drug addiction.

## Asia

The Mekong region is a particular focus of concern, with Myanmar being consistently identified “as a country from which nationals are trafficked into Thailand and a transit country for traffickers to move Chinese from Yunnan province into Thailand” (Caouette 1998, see also ESCAP 2000). An estimated 194,180 foreign child labourers (mainly from Myanmar, Laos and Cambodia) were trafficked into Thailand to work in construction, small shops, fishing, footwear factories, agricultural plantations, domestic work, begging, soliciting and gang work in 1998 (ILO 2002). Adult migrants are also vulnerable to abuse and exploitation within many of the same sectors, especially those who enter Thailand through irregular channels and without work permits (APWLD 2000).<sup>8</sup> Employers in agriculture, garment and footwear factories, construction and fishing in many other countries in this region also provide demand for the labour of trafficked and otherwise unfree workers (Sweatshop Watch 2002). Though the sex industry in many Asian countries offers many female migrants the only or best paid opportunities for earning, it is also a key site of abusive and exploitative employment practices, including trafficking (Emerton 2001, AMC 2000, Yim 2000, Xie 2000, Zi Teng 2000, HRW 2000, Phongpaichit 1999, Caouette and Saito 1999, IOM 1997 and 1999, Pyne 1995, Ren 1993). Demand for commercial sexual services comes from local and migrant men, businessmen, domestic tourists and to a lesser extent, foreign tourists (Bishop and Robinson 1998, Fiengold 1998 and 2000, Allison 1994) Domestic work is another sector in which migrant workers are known to suffer a range of human rights abuses (AMC 2000, CMR 2001, Ai Yun 1996, Pei-Chia 2000). There are also continued reports of women and girls being trafficked for marriage within and across borders (AMC 2000, Sassen 2001).

A similar picture obtains in South Asia. Again, the sex trade is an important site for trafficked and other forms of unfree labour, and children are amongst those affected, and again demand for commercial sex comes predominantly from local men, migrant workers and domestic travellers (Kumar 2001, Uddin *et al* 2001, Saeed 2002, Brown 2000). Forced and bonded marriage is also known to represent a significant problem (ILO 2002, Forum on Marriage 2000). However, there are many other sectors in which internal or cross border migrants (both adult and child) are debt bonded, held captive and/or otherwise subject to abusive and slavery-like practices, including fisheries and fish processing units, and saltpan plants, rice mills, agriculture, manufacturing, textiles, restaurants and hotels, domestic work, and begging (ILO 2002, Naz 2001, Jagori 2001, Voice of Labor 2001, Pradhan 1995, Silvers 1996, SACCS 1999).

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<sup>8</sup> Even those who are able to register for work permits and so are in theory protected by the same labour law as Thai workers are not allowed to join trades unions, making it difficult for them to claim these rights in practice.

## *Africa*

Existing studies have highlighted the trafficking of children within West Africa for domestic work (ASI 2001a and b, Veil 1998, Dottridge 2002). These have found that most of these children come from large, poorly educated and rural families and are trafficked both within and across international borders. Many of those repatriated or intercepted do not return to their families. There is also demand for trafficked/unfree child labourers in a range of sectors including mining, manufacturing and agriculture (ILO 1996, 2001 and 2002). For example, in Malawi roughly 2.5 million children are estimated to be working on large-scale farms, many of whom are not paid wages, but rather working for food and accommodation, and some of whom are subject to forced labour or are bonded workers on tobacco plantations (Eldring *et al* 2000). There is also widespread concern about children forced into soldiering as well as into acting as “wives” for soldiers (CSUCS 2001). Though information on patterns of migration into formally organised prostitution in African countries is relatively sparse, it is known that demand for prostitution often comes from migrant men who themselves work in atrocious conditions in sectors such as mining and agriculture (Campbell 2001). There have also been many reports concerning the commercial sexual exploitation of refugee women and children by, among others, peace keeping troops and foreign aid workers (for instance, Kadjar-Hamouda 1996, Grigg 1997, AI 1998, Della Serra 2001, ARC 2001), as well as reports of refugee women being traded as concubines or wives to South African men (US Department of State, 2001). Meanwhile, women and girls who migrate from Africa to Europe to engage in domestic or sex work are known to be vulnerable to abuse and exploitation both within the migratory process and at the point of destination (IOM 1996a).

## *Americas*

In North America, demand for trafficked and otherwise unfree workers comes from employers in a range of sectors, including construction, agriculture, restaurants, the sex trade and domestic work (O'Neill Richard 1999, Smith 2002, Ellison 1999, Hoschschild 2000, HRW 2001, Ko-Lin 2000, Mattingly 1999, Romero 1992). There is also a demand for “Mail-Order-Brides”, especially from Russia and the Philippines, and whilst such brides are rarely trafficked according to the protocol's definition, reports of domestic violence and other forms of abuse against them are not infrequent (Sassen 2001). In Latin America, demand for trafficked/unfree workers is again spread over many sectors: mining, logging, agriculture, manufacturing, begging, drug running, domestic work and prostitution (Dimmenstein 1991, Americas Watch 1991, Sutton 1994, Radcliffe 1999). So far as prostitution is concerned, clients include migrant workers in logging and mining (Antonius-Smits *et al* 1999), military personnel (Kane 1993), truckers, local men and tourists (Ragsdale and Anders 1999, Mayorga and Velasquez 1999, Nencel 2001). There is also demand for child prostitutes (both local and internal migrants) in some Caribbean countries from local men and tourists (Silvestre *et al* 1994, Dunn 2001, O'Connell Davidson and Sanchez Taylor

2001). Significant numbers of women from several Latin American and Caribbean countries also migrate within the region and/or to Europe, North America, Japan and Israel to engage in sex or domestic work (Colombia and the Dominican Republic are often identified as major “sending” countries). Some of these women are trafficked or otherwise exploited and abused within the process of migration or at the point of destination (Wijers and Lap Chew 1997, Kempadoo 1999, COIN 1992 and 1999, IOM 1996b).

## *Europe*

It is estimated that in some European Union countries between a third to half of those present in prostitution are migrants (Tampep 1999, Randers-Perhson and Jessen 2001).<sup>9</sup> Large numbers of migrants also work in the sex industry in European countries outside the EU. As elsewhere in the world, it would be entirely wrong to assume that all migrant sex workers have been trafficked into prostitution, but there are nonetheless third parties within the sex industry who provide demand for trafficked persons and/or subject workers who have entered the country legally as “entertainers” to abusive or slavery-like practices (Calder et al 1997, IOM 1996a and b, Jonsdottir 2001, Rodriguez et al 2001, Kelly and Regan 2000, Siden 2002). It is also important to note that ineligibility for state benefits or work permits for formal employment can force migrants to turn to sex work (Europap-UK 1999). Those who buy sex in Europe include locals, tourists, migrant workers, and businessmen (Hart 1994, Faugier and Sargeant 1997, Clift and Carter 2000, O’Connell Davidson 1998, Siden 2002). Particular concerns have been expressed about the demand for commercial sex from UN peacekeepers and international aid agency workers in Bosnia and Kosovo (Sutton 2001). Those working for international aid agencies also sometimes provide demand for the domestic labour of those they “help” (Pupavac 2002), and more generally, domestic work is another area in which there is known to be demand for trafficked/unfree workers in Europe (Anderson 2000 and 2001, KOK 2001, Lazaridis 2000). Trafficked/unfree person’s labour/services are also known to be exploited in private households by husbands of “Mail Order Brides”, hosts of au pairs, and guardians of children who have been legally or fictively adopted (Wijers and Lap-Chew 1997, Anderson 2000, del Rosario 1994). Agricultural labour is another key site for abusive labour practices and the exploitation of unfree workers in Europe (Baldwin-Edwards 2001, Webster 2001)<sup>10</sup>, as is restaurant work (Pieke 2002, Ratnesar 2000) and construction (Macaista Malheiros 1999, White 1997).

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9 Smaller numbers of migrants are found in sex work in some EU countries however, and migrant sex workers are not necessarily evenly distributed across countries as a whole. In the UK, for instance, migrant sex workers are concentrated in London, and even here, some authorities challenge the idea that even 25% of sex workers are non-UK nationals (Kinnell 1999).

10 See also an account of Thai workers brought to Sweden in 1998 to work as berry pickers, <http://www.scalabrini.asn.au/atlas/thailand98.htm>

## *Middle East*

As elsewhere in the world, there is demand for trafficked/unfree labour from employers in a range of sectors. Particular concerns have been expressed about the use of child soldiers (CSUCS); the exploitation of boy children from Sri Lanka as camel jockeys in Saudi Arabia and the United Arab Emirates (ILO 2002); child marriage in the Middle East and North Africa (Mikhail 2002); and the exploitation of trafficked/unfree prostitutes and domestic workers in many countries in the region (US Department of State 2001, Young [undated], AMC 2000).

## **Explaining Demand**

In a recent analysis of trafficking, Patrick Taran observes that processes of globalisation have led to rising unemployment and increased poverty in many parts of the world, thereby intensifying pressures to migrate and so expanding the supply of migrant workers. He then notes that continued demand for cheap, low-skilled labour in industrialized countries and in many developing nations means that they remain 'a pole of attraction for migrant workers'. At the same time, however, migration policies in these receiving countries have become more restrictive, and this fuels markets for smuggling and trafficking migrants:

To put it in perhaps oversimplified terms, basic labour economics theory would suggest that placing barriers between high demand and strong supply creates a potentially lucrative market for services of getting supply to where the demand is (ILO 2002, p5)

Some migration theorists would argue that "push" and "pull" factors in the migration process cannot always be so neatly mapped onto questions about the supply of, and demand for, migrant labour. On the one hand, research shows that migrant workers often undertake jobs that would not exist without a supply of cheap and vulnerable workers to fill them (Glover *et al* 2001). In other words, a supply of workers who are willing or forced to undertake certain tasks or provide certain services can generate demand for such labour/services rather than *vice versa*. On the other hand, studies of migration reveal that migrants are simultaneously subject to forces of globalisation and agents of it.<sup>11</sup> In particular, research shows that migrants' networks often become self-perpetuating, not just in terms of family reunification, but also in terms of accessing and developing a local labour market and a local but migratory labour supply. Many migrants actively seek opportunities to migrate to a particular destination on the basis of their knowledge of, and/or connections with, other people who have successfully migrated to that destination, rather than responding mechanically to the demand for labour wherever it may happen to be.

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<sup>11</sup> Furthermore, once the migration process begins, it alters circumstances both at origin and at destination, a phenomenon termed "cumulative causation" (Massey 1990). For example, in the place of destination, local workers may begin to view some jobs as low status "immigrant" work, and refuse to enter those occupations. In the place of origin, income inequalities may increase, thereby intensifying feelings of "relative deprivation" and heightening the pressure to migrate. At the same time, opportunities to migrate often become more extensive as friends and relatives open up access to networks of employment opportunities and mechanisms of migration.



Whether migrants are responding to “pull” pressures in the form of demand for labour, or choosing to travel to destinations where they believe they will be best placed to access a better quality of life, it is almost inevitable that migration policies in both sending and receiving countries will often have unintended, as well as intended, consequences. In particular, it is clear that the more movement is illegalised, the greater migrants’ vulnerability to trafficking and other abusive practices (Collinson 1994, AMC 2000, Gallagher 2002, ILO 2002, Coomaraswamy 1997). Furthermore, even if we accept that demand for labour/services can sometimes play a role in stimulating or perpetuating migratory flows between any two given countries or regions, the idea that trafficking is driven by the demand for unfree and exploitable persons actually begs a host of difficult questions about the relationship between supply and demand, and about the social and political construction of markets. As argued below, demand – whether for labour or consumer goods or services – does not exist in nature, but has to be brought into being and made effective by extremely complex social, political and economic processes.

### *Demand for Cheap and Vulnerable Labour*

The exploitation of trafficked and otherwise unfree persons most often takes place a) within forms of economic activity that are either illegal or informal, or else poorly regulated or unregulated; or b) in economic sectors in which it is difficult to enforce regulatory controls and where profit margins are extremely low; or c) in settings that are socially imagined as beyond labour regulation – i.e., private households. Next we should note that many of the jobs such people undertake are “place dependent” (i.e. they cannot be moved, and labour must thus come to capital rather than the other way about). Alternatively, the work is provided by small scale enterprises that would be unable to transport goods or establish parts of their production in regions where labour costs are very low, as large companies are able to do, and therefore depend on documented or undocumented migrant labour (Ruggiero 2000). Finally, “exploited persons” are usually found performing labour that is associated with jobs at the lowest end of the employment hierarchy in any given sector, which is to say, they generally carry out work that is considered to be low status, and that, where performed by “free” wage workers, is extremely low paid. In other words, trafficking and other forms of unfree labour are closely associated with what is sometimes termed “poor work”.

All of this suggests that states can play an important role (both through action and inaction) in shaping the demand for the labour/services of “exploited persons”. To begin with, national governments are heavily implicated in the construction of both “poor work” and “vulnerable workers” through their policies on immigration, employment, economic development, welfare, education and so on. For instance, by failing to ensure gender equality in education, and/or failing to enforce legislation against gender discriminatory social practices, the state can be said to construct female workers as more vulnerable to “poor work”, and as more vulnerable within it, than their male counterparts. State policies with

regard to immigration and asylum also help to construct situations within which certain groups of migrants are especially vulnerable to extremes of exploitation. Meanwhile, by excluding particular sectors of employment (such as that in private households, or in small firms) from legislation on employment rights, the state can be said to create pockets within which some workers lack the formal protections accorded to others, and are therefore more vulnerable to abuse and exploitation. Indeed, the ILO has commented that:

A major incentive for trafficking in labour is the lack of application and enforcement of labour standards in countries of destination as well as origin... Tolerance of restrictions on freedom of movement, long working hours, poor or non-existent health and safety protections, non-payment of wages, substandard housing, etc. all contribute to expanding a market for trafficked migrants who have no choice but to labour in conditions simply intolerable and unacceptable for legal employment (ILO 2002, p8).

It is certainly the case that some labour markets are more difficult than others to regulate effectively,<sup>12</sup> and that where services or labour are provided within the household by persons who are not legally or socially constructed as ‘employees’ (for instance, wives, *au pairs*, adopted children), there are rarely any mechanisms in place that can effectively be used to regulate the amount of labour consumed by the husband/host/guardian, or to monitor the conditions under which such people work. None of these obstacles to regulation are insuperable, but they do mean that it would cost a great deal of money for the state to effectively protect workers and other exploitable persons in such sectors. In both affluent and developing countries, governments are generally unwilling to invest the level of resources that would be required to ensure that employers in “difficult to regulate” sectors do not abuse their powers over workers. Likewise, it is only recently (and as a result of falling membership from larger and more centralised forms of employment) that trades unions have even begun to think about how to organise and protect workers in such sectors. Meanwhile, feminists have long been critical of the fact that through their focus on rights abuses that take place in the “public sphere”, domestic legislation and international human rights law fail to adequately address the human rights violations that take place within the “private” realm of the household (Peters and Wolper 1995).

In conclusion, though it is all too easy to identify employers and others who currently take advantage of cheap and vulnerable labour, it does not follow that

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12 For many and obvious reasons concerning matters such as entry costs, and the scale and nature of the activities involved, it is rather easier for a government to regulate and control the production and consumption of nuclear energy than to regulate and control the production and consumption of take-away meals. Similarly, it is in principle easier to monitor transactions between major corporations than between self-employed tradespersons and private householders. The market for domestic workers in private households is possibly even more difficult to regulate, because it takes place in a sphere that is hidden from view and that is not routinely subject to public controls (health and safety, tax, public health, and so on), and there are also various forms of sex work that are particularly hard to regulate effectively. It would be extraordinarily difficult to effectively regulate street prostitution, for example, or the private production of pornography which is then sold on the commercial market. Equally, where an industry is seasonal and/or otherwise much affected by peaks and troughs in demand, it is often more profitable for firms to make use of casual and/or temporary workers, or to make use of labour supplied by smaller firms of subcontractors, or gangers or middle-agents. This may also be used as a strategy to avoid organised labour. It is more difficult for a government to enforce employment legislation in such sectors, where there is a high turnover of labour, and where often neither workers nor the subcontractors who employ them have an interest in declaring their earnings.



there is some absolute level of demand for exploitable labour in any given sector that could, in itself, stimulate or drive trafficking. Indeed, there is much evidence to suggest that such demand is historically variable and contingent upon a range of political and institutional factors (not least of which is the strength of organised labour).

### *Demand for “Embodied” Labour/Services*

When employers and consumers pay for services/labour, they do not always simply wish to purchase a “thing” (the worker’s disembodied power to labour or serve) but also often wish to consume what has been termed “embodied labour” (Walkowitz 2002, Sanchez Taylor 1999, Anderson 2000). This is to say that they may wish to make use of the labour/services of persons of a specific age, sex, race, nationality, caste, or class. Consumers of commercial sexual service provide a clear example here, since few clients would be equally happy to buy sex from an elderly man or a young woman. They may also have specific preferences regarding the racial or national identity of the sex workers they use. The same point applies to those who wish to consume the labour of domestic workers, wives, adopted children or *au pairs* within the private household. Equally, those who make money by organising and taking a cut from street beggars are not necessarily indiscriminate about the kind of people they “employ” (a healthy muscular adult male is unlikely to earn as much from begging as a frail elderly woman or a small child). Similarly, a person’s age and sex has a bearing on how effective a drug mule or pickpocket they are likely to make.

More generally, those who wish to employ cheap labour (especially those who want to employ someone to cheaply undertake forms of labour that are socially devalued) tend to seek out members of groups that not only lack social protection but that are also socially stereotyped as “naturally” servile or otherwise “naturally” suited to working in poor conditions for little recompense. This kind of demand is grounded in and reproduces wider social attitudes towards gender, age, race, ethnicity, nationality and caste. Again, we can say that states play a role in the construction of such demand, either through policies that institutionalise discriminatory attitudes or through their failure to effectively challenge discriminatory social practices.

Demand for “embodied” labour does not always map onto demand for cheap and exploitable labour, nor is it always or necessarily associated with the coercive exploitation of trafficked, smuggled or irregular migrants. However, it is certainly conceivable that strong consumer demand for services provided by persons of a particular gender, age, and/or racial, ethnic or national identity, and a shortfall of persons willing or able to meet that demand, could act as a stimulus for the use of forced labour, including that of trafficked persons. Again, however, any such link would be mediated by a host of structural and ideological factors. Consumer demand does not simply exist, waiting to be answered. Instead, what people want to buy is a socially, culturally and historically determined matter. People may have certain basic needs (food, shelter, clothing), but they are not born wanting or needing any particular consumer product or service. Rat-

her, they learn to want what is available and considered as ‘normal’ in their society. Moreover, as many sociologists and historians have pointed out, consumption is a form of display (Veblen 1994, Bauer 2001). The particular products and services that people buy are therefore taken as markers of their social identity and status. Because people’s ‘wants’ are very much shaped by a) what is available and affordable to them, and b) what is socially valued, it is just as difficult to meaningfully separate supply and demand in relation to consumer markets as it is in relation to labour markets. The availability, affordability and social meaning of any commodity or type of personal service, and therefore levels of demand for it, can be manipulated by producers and by governments.<sup>13</sup>

The following sections explore how the facets of demand mentioned above manifest themselves in the markets for prostitution and domestic work. These two sectors were singled out for attention for two main reasons. First, both are highly gendered and racialised, relying on a predominantly female workforce many of whom are migrants or members of ethnic minority groups; both are largely unregulated spheres of economic activity, often offering extremely poor working conditions within which domestics/prostitutes are at risk of various forms of abuse and violence. Second, those who consume the labour/services of both prostitutes and domestic workers often have an interest in the *person* of the worker, rather than simply the end product of her/his labour. Where the consumer who buys an item of clothing, or a piece of fruit or a packet of cigarettes has no interest in the identity of the workers whose labour made these commodities available, the worker’s age, gender, race, nationality, caste, and/or ethnicity, as well as her/his appearance, demeanour, and linguistic capacities can matter a great deal to those who buy sex or employ a domestic worker. These sectors therefore allow us to explore possible links between consumer demand for cheap and exploitable service providers and/or “embodied labour” and the phenomenon of trafficking and other forms of unfree labour.

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13 For example, in the poor and developing world, many children work as “shoe-shine boys”, whereas few do so in the affluent world. The absence of this form of child labour in affluent countries and its presence in poorer nations cannot be explained through reference to different levels of absolute demand for shoe-shiners’ labour. Here, as elsewhere, the relationship between supply and demand is mediated by a range of economic and social factors, as well as by government policies on employment (including child labour), immigration, education, and welfare.

### 3. *The Commercial Sex Sector*

#### **General Remarks on the Commercial Sex Market**

Though it is impossible to obtain accurate statistics on the size or earnings of the global sex industry, there is evidence to suggest that sex commerce is a significant feature of economic life in many nations, regardless of their overall level of economic development (Matthews, 1997, Lim 1998, Doward 2002, Bishop and Robinson 1998). However, we should also note that the market for commercial sex is extremely diverse, incorporating a wide spectrum of different activities and transactions, undertaken in different settings. It includes sexual entertainment (such as go-go dancing, lap dancing, striptease, live sex and peep shows, and other forms of sexualised performance including telephone sex), pornography, and prostitution, and commerce within each of these sub-sectors can take an immense number of different organisational forms and cater to a huge variety of different sexual interests. There is much price variation within commercial sex markets, and business can be geared toward demand from the very wealthy, those with middle-range incomes, or those with very low incomes. Within prostitution, the way in which the exchange between 'service consumer' and 'service provider' is contractually arranged and socially imagined also varies.

Few countries entirely prohibit all aspects of sex commerce, and it follows that in most countries, the commercial sex sector incorporates both legal and illegal activities. In most countries, the sex sector also straddles the formal and informal economies. Some aspects of the commercial sex trade are integrated into mainstream, legal economic structures (such as the entertainment, leisure, film or publishing industries) and are organised and controlled by medium or large firms. Other forms of sex commerce take place within an illegal or informal economy, and involve small-scale enterprises or individual entrepreneurial activities. Furthermore, the market for commercial sex overlaps and intersects with non-commercial sexual arrangements.<sup>14</sup>

Finally, employment relations within the commercial sex sector vary, and within a single country (or even city) there can be dramatic differences in terms of working conditions, earnings, and the level of control that workers exercise over their working practices. At the top end of the sex work hierarchy are independent, often self employed, adult prostitutes and performers who exercise a relatively high level of control over their work routines, and enjoy relatively good working conditions and relatively high earnings. At the bottom end of the hierarchy are individuals who gain little or no financial reward from the sexual services/performances they provide, exercise little or no control over their work, and live and work in appalling conditions. Between the two extremes are those who

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<sup>14</sup> In particular, what is known as 'open-ended' prostitution can shade off into longer-term relationships within which one party provides domestic labour and/or companionship, as well as sexual services, in exchange for a range of benefits. Such relationships are often difficult to distinguish from conventional and legally sanctioned relations between husband and wife, and it is therefore difficult to determine whether phenomena such as contemporary forms of concubinage (Hobson and Heung, 1998), or 'mail order brides' (del Rosario 1994) should be included under the heading of 'commercial sex'.

either work independently or enter into some form of employment relation with a third party. The degree of control they exercise over whether, when, how often and on what terms they work varies according to a range of factors, including their level of economic desperation; the contractual form of the sexual-economic exchanges they enter into; and the specific legal, institutional, social, political and ideological context in which they work (see O'Connell Davidson 1998, Weitzer 2000, Scambler and Scambler 1997).

Taken together, these points mean that we need to think in terms of plural and segmented markets for commercial sex, rather than *a* single market. They also mean that within in any single country, there can be much regional variation in terms of the scale, organisation and nature of each strand of the sex trade, and this variation reflects the interplay of global, national and local factors (economic, social, political, legal and ideological). The diversity and complexity of the commercial sex sector makes it difficult to advance meaningful generalisations about *the* demand for commercial sex. The remainder of this section focuses on questions about the demand for prostitution.<sup>15</sup>

### **Prostitution**

Analysis of any aspect of prostitution must begin with an appreciation of the profoundly negative stigma that is almost universally attached to prostitute women. Religious thinking on men's prostitute use varies, but there is no major world religion that actively sanctions female prostitution, and in secular societies, "scientific" thinking has done little to displace traditional attitudes. It is thus widely assumed that though men's prostitute use is based in natural, biologically determined sexual drives, women who prostitute are somehow abnormal, unnatural, a threat to public health and order. The stigma partly reflects the fact that in virtually all societies, sexual and economic relations are imagined, explained and justified in very different ways. Where the products of human labour and even human labour power itself are imagined as commodities to be bought and sold on the basis of rational economic calculation and/or in pursuit of status and social prestige, human sexual interaction is generally regulated and given meaning through reference to pre-market or non-market ideas, such as those pertaining to honour, shame and duty, and/or romantic love, and/or recreation, pleasure and desire. Prostitution thus occupies a troubled and troubling space between two quite different symbolic domains. It does not readily fit into popularly understood categories of either "sex" or "work". This is reflected in the state's response to prostitution. Prostitution law varies from country to country and even within individual nation states, but typically enshrines this stigma and ambivalence by treating female prostitutes as a distinct class of persons, separate from other workers and/or women in terms of their rights to protection, privacy and/or self-determination (Bindman, 1997, Pheterson 1996, Alexander 1997).

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<sup>15</sup> Space does not permit a detailed analysis of consumer demand for every type of commercial sex, and it is also the case that far more evidence is available on the demand side of prostitution than on demand for pornography and sexual entertainment.

## *Demand for Prostitution*

Existing research suggests that the general demand for prostitution comes overwhelmingly, though not exclusively, from men. Survey research also reveals a good deal of variation between countries and regions in terms of the percentage of men who admit to having ever paid for sex. In some countries it appears that men who buy sex are very much in a minority, whilst in others, well over a third (sometimes up to two-thirds) of men are estimated to have paid for sex at some point in their lives (Melbye and Biggar 1992, Leridon *et al* 1998, Månsson 1998, Haavio-Mannila and Rotkirch 2000, Brown 2000). In many countries, research further suggests that some occupational groups, for example, military, police, seafarers, truckers are more prone to prostitute-use than others, and that those who travel either for business or leisure are also more likely to buy sex (Euler and Welzer-Lang 2000, Enloe 1993, Naz 2002, Kleibe and Wilke 1995). Existing interview and survey research with men who buy sex reveals that they typically explain their own prostitute use through reference to one or more of the following motivations: the desire for a particular kind of sexual experience; the desire for particular kinds of sexual partners; the desire for control over when and how to have sex (Monto 2000, McKeganey and Barnard 1996, Faugier and Sargeant 1997, O'Connell Davidson 1998, Månsson 2002, Hoigard and Finstad 1992). Some studies further suggest that there are men who visit prostitutes in search of companionship and what they take to be intimacy (Plumridge *et al* 1997, Jordan 1997, Graaf *et al*, 1992).

Research on clients has mostly been conducted in affluent, economically developed countries. Without conducting comparable research in developing countries, it is not possible to say whether the findings of such studies can be generalised to the global population of male prostitute users. Furthermore, this kind of research does not help us to understand why the demand for prostitution is so highly gendered. Women also experience desire for particular kinds of sex and sexual partners, women are often lonely, and some women would also like to control when and how they have sex. Why are men more likely than women to act on these desires by buying sex? It was noted in Section 2 that consumption is a form of display, a way of confirming social identity and status. One of the most common conclusions drawn by those who have attempted to theorise the demand for prostitution is that there is a link between the way in which “masculine” identity is socially constructed and the desire to buy sex (Pateman 1988, Barry 1995, Jeffreys 1997, Månsson 2001). The idea that prostitute use allows men to express and affirm a masculine identity may help to explain why prostitute use is common in settings where men feel that their “masculinity” is at risk (e.g., when they work in exploitative conditions over which they have little control) and/or in settings where the social premium placed on “masculinity” is suddenly raised (e.g., periods of armed conflict). It also suggests that there may be a link between the social devaluation of women and the demand for prostitution, in the sense that the more a society devalues “femininity”, the more important it is for men to distance themselves from the “feminine” by asserting their “masculinity”.

However, demand for commercial sexual services also exists in societies that formally promote gender equality. Indeed, in some of the countries where feminists have most successfully battled against women's exclusion from the public realm, prostitution is increasingly imagined and represented as a form of personal service that men and women alike may aspire to consume (Califia 1994, Nagel 1997). This draws attention to the fact that the consumption of personal services can be a means through which to display and affirm class or race privilege and identity, as much as gender power and identity. If buying sex expresses, or can express, clients' desire to have another human being serve them by attending to and indulging their sexual whims and fancies, then it cannot be assumed that the demand for prostitution will decrease the more gender-egalitarian a society becomes, for gender egalitarianism does not eradicate social inequalities along the lines of class or race. No matter how we theorise the general demand for commercial sex, it is important to note that such analyses cannot help us to answer questions about "the demand side of trafficking", since demand for prostitution can be met by "free" sex workers as well as by trafficked persons. It is therefore important to address more specific questions about demand for the services of unfree prostitutes.

### ***Consumer Demand for the Sexual Services of Trafficked and Otherwise Unfree Persons***

There are certain "market niches" within the sex industry that are very rarely – if ever – associated with trafficking or slavery-like employment practices (the market for telephone sex and the market for what are known as "domination services" are cases in point).<sup>16</sup> There are also certain segments of the prostitution market in which sex workers appear to be more vulnerable to violence from clients. For example, research suggests that both male and female street prostitutes in Europe are at greater risk of assault and rape than are those working in indoor prostitution (West 1992, Scambler and Scambler 1997). Is it also possible to identify types of consumer demand that are more likely to be met by unfree workers? Below, evidence on three categories of demand is considered: demand for cheap and/or vulnerable sex workers; demand for racially or nationally "Other" sex workers; and commercial sexual demand for children.

#### ***Demand for Cheap and/or Compliant Sex Workers***

Research with groups prone to prostitute use (such as seafarers, tourists, truckers, businesspeople) suggests that they are more likely to buy sex in settings where commercial sex is cheaper.<sup>17</sup> Likewise, when there are large disparities bet-

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<sup>16</sup> A child or a visibly drugged or brutalised sex worker is hardly likely to appeal to a client who wishes to indulge in a fantasy that he is being forced to submit to the will of a sexually powerful dominatrix. However, while domination services may be most commonly provided by independent, adult sex workers who enjoy a high level of control and relatively good earnings, the production of pornography for the domination market may well be associated with extremely abusive employment relations. This is an area where more research is required.

<sup>17</sup> For example, a study of 380 seafarers found that only 7% of those who had last taken shore leave in Western Europe had had sex in their last port of call, whereas 25% of those who had last taken shore leave in Latin America had had sex whilst on leave (Bellis et al, 1996).



ween the prices charged by prostitutes in neighbouring countries and/or within a region, those from wealthier countries will travel across borders specifically in order to buy sex. A thriving sex trade has thus developed in certain towns in Northwest Russia serving demand from Finnish, and to a lesser extent Swedish, clients (Rusakova 2001, IAF 2001), and in various Czech border towns serving demand from German clients (Siden 2002). This suggests a) that price is an important consideration for many sex buyers, and b) that levels of demand may rise when sexual services are supplied more cheaply. All over the world, it is possible to find women and girls who are subject to forced labour, indenture and other slavery-like practices in segments of the prostitution market that cater to demand for cheap, quick, “rough and ready” commercial sex (see for instance Uddin *et al* 2001, Skrobaneck *et al* 1997). In Europe in particular, this has been identified as a market segment in which criminal gangs appear to be more likely to be involved in both the trafficking and control of female prostitutes, possibly because here, “business” is conducted in settings that are not easily monitored or controlled (side streets, truck stops on highways, streets and small bars in towns with a transient population). However, consumer demand for cheap sex can also be, and indeed often is met by “free” sex workers.<sup>18</sup> Meanwhile, those working in the most highly priced forms of sex work are not necessarily immune from abuse or exploitation by third parties (see, for example, Rodriguez’s 2001 study of the sex trade in North Cyprus). Moreover, even within in a single setting it is often possible to buy sex from both “free” and trafficked/unfree prostitutes, and clients will not necessarily know whether the prostitutes they use are in the former or the latter group.<sup>19</sup>

Unfree prostitutes may not always be cheaper than their “free” counterparts, but they are often less able to set limits on the nature and terms of their encounters with clients than their “free” counterparts, and so may be more compliant as regards the acts they will perform. For instance, clients may find it easier to insist on unprotected sex with unfree workers. Where the demand for cheap sex simultaneously represents a demand for vulnerable sex workers, it can also overlap with demand for racially/nationally “Other” prostitutes, both adult and child. For example, research in Greece found that Albanian women and children (boys as well as girls) were placed on the lowest rung of the prostitution hierarchy, and stereotyped as dirty, cheap, and submissive (Psimmenos, 2002, p96). This draws attention to the significance of the “whore” stigma for sex workers’ experience. Those who are viewed as conforming most closely to negative stereotypes about prostitutes appear to be at greatest risk of violence from clients, and it seems likely that the clients who abuse such sex workers also have few qualms about whether or not they are trafficked or unfree. Against this, it is important

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18 Street prostitutes in Britain, for example, charge significantly less for sexual services than do prostitutes working in most off street forms of prostitution, but many work independently of any pimp or third party controller (McKeganey and Barnard 1996). Similarly, migrant women working in street prostitution may offer sex more cheaply than their local counterparts, but this is not necessarily because they have been trafficked. It can also be because they wish to maximise earnings by increasing the “throughput” of client in order to meet high living expenses or to remit money to dependants back home.

19 For instance, in brothel districts in Bangladesh, sex can be bought from two groups of prostitutes: Bharatia, tenant sex workers who lease a room or hut from a third party organiser of the sex trade, but control their own earnings, and Chukri, women and girls who have been trafficked into the brothel community where they are sold to, and controlled by, third parties as bonded workers (Uddin *et al* 2001).

to stress that some clients do *not* wish to buy sex from prostitutes they perceive to be vulnerable, and that clients are amongst those who report cases of trafficking and abuses against prostitutes to the police, as well as amongst those who offer assistance to victims of trafficking (Siden 2002).

There is certainly demand for cheap and vulnerable sex workers, but it is by no means clear that this kind of demand acts as a stimulus for trafficking. It could equally be that a supply of cheap workers stimulates demand. In some places, the growing presence of migrant sex workers over the past decade is believed to have led to a fall in the price of both street and off-street prostitution.<sup>20</sup> It could well be that as a result, more men are buying sex and/or that established clients are buying sex more frequently. Unfortunately, too little research attention has been paid to patterns of demand for commercial sex to be able to support or refute such hypotheses.

### *Demand for Commercial Sex with the “Other”*

In most countries of the world, women of different nationalities and/or minority racial or ethnic identities are over-represented in the sex trade.<sup>21</sup> This does not, in itself, demonstrate the existence of a specific demand for the sexual labour of racially or nationally “Othered” persons. It could be that in many cases, clients would prefer to be sexually entertained or serviced by people who share their own identity, but make use of “different” sex workers because they are the most widely and/or the cheapest available. Indeed, price hierarchies within the sex trade often indicate that racial “sameness” is valued by many clients. Migrant workers may represent a “poor man’s substitute” for more expensive local sex workers. This area has received very little research attention.

By contrast, there are many studies that have explored the attitudes and practices of clients who *do* have a particular and focused interest in sex workers of a different racial, ethnic or national identity to themselves. Interview research with white Western men who practice sex tourism to Southeast Asian, Latin American and Caribbean countries reveal a constellation of attitudes towards gender, race and sexuality that simultaneously sexualise racially Othered persons, and de-sexualise white women (O’Connell Davidson 1998, 2001a, Kruhse-Mount Burton 1995, Seabrook 1997, Bishop and Robinson 1998). Western women who practice sex tourism voice similar forms of sexualised racism (San-

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20 This is based on one of the author’s (O’Connell Davidson) interviews with local sex workers and outreach workers in Hong Kong and Sicily in 2001.

21 For example, in Sweden, around 26 percent of the estimated 2,500 persons working in prostitution are believed to be migrants; in Denmark, 33 percent of the estimated 6000 sex workers are thought to be migrants; in Germany, migrants make up around half of the estimated 300,000 sex workers (Randers-Perhson and Jessen, 2001). Foreign migrants also represent a strong presence in the sex industries of many Asian countries. There are currently a total of 32,297 registered foreigners in Japan who entered the country with permits to work as ‘entertainers’ (AMC 2000). Though ‘entertainment’ does not necessarily mean sexual entertainment, and work permits for entertainers certainly do not license women to engage in prostitution, many female entertainers are employed within Japan’s commercial sex industry, either as performers or as prostitutes. There are also large numbers of undocumented migrant sex workers in Japan, many of whom are Thai. It was estimated that in 1995, there were around 23,000 Thai female sex workers in Japan (Phongpaichit 1999, p82, see also HRW 2000). Vietnamese women and girls are present in the sex trade in Taiwan, the People’s Republic of China, Macau and Thailand, and are reported to make up about half of the 6000 foreign sex workers present in Cambodia (AMC 2000). The list could go on.



chez Taylor 2001). There are also many studies that suggest a link between ideologies of masculinity, on the one hand, and racism and nationalism on the other, which encourages men to engage in certain forms of sexually violent and/or exploitative practices against persons from other, “inferiorised” nations or racial/ethnic groups. In periods of colonial expansion and of armed conflict, the sexual use of colonised or “enemy” women (either through rape or prostitution or both) is common (Sturdevant and Stolfus 1992, Enloe 1993, Moon 1997, Tanaka 2001). In countries that have a history of colonial and imperialist aggression against other peoples and nations, it is not uncommon to find a continuing sexual interest in women of formerly colonised nations based on myths and fantasies about their sexuality.

There is thus plenty of evidence to suggest that both exoticising and denigrating racist and/or nationalist discourses are widely used to construct particular racial or national groups as objects of sexual desire. However, there is no reason to suppose that demand grounded in sexualised-racist or nationalist discourses automatically provokes trafficking. Discourses that sexualise certain racial or national groups only translate into significant movements of people when and if large numbers of persons belonging to the groups in question are subject to strong migratory pressures.<sup>22</sup> Within such movements, it is only some, and not all, migrant sex workers who end up being coerced into exploitative employment relations, and it is important to recognise that any relationship between consumer demand for migrant sex workers of a particular nationality/racial identity and the phenomenon of trafficking is mediated, at least in part, by the immigration controls that the receiving country applies to members of that group.<sup>23</sup> It is also partly contingent upon the social organisation of, and legal controls over,

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22 Consider the differential effects of the sexualisation of Swedish and Thai women in the recent past, for example. Because Sweden's censorship laws were relaxed during the 1970s, a good deal of the pornography consumed in other European countries at that time was produced in Sweden. Indeed, in Britain, the term “Swedish movie” was used as a euphemism for pornographic film, and to this day, some British clients ask prostitutes whether they “do Swedish”, meaning does the prostitute offer a service which involves bringing the client to orgasm by masturbating him between her breasts? Swedish women were thus popularly associated with sexual willingness and adventurousness, and there would certainly have been a specific demand for their sexual services in a number of countries that could have been met by migrant Swedish sex workers. However, the potential demand for Swedish sex workers did not precipitate large scale migration. By contrast, large numbers of Thai women have migrated over the past twenty years to meet demand for Thai sex workers that is based in Western and Japanese discourses that construct Thai women as sexually willing and exotic. The relatively large numbers of Thai women and small numbers of Swedish women in the international sex trade reflects the fact that Thai women have been, and remain, under far greater pressure to migrate than Swedish women, and that as migrants, Thai women have fewer equally well paid alternative job opportunities.

23 For example, a British woman, ‘Charlie’, who worked for a ‘high class’ escort agency in Hong Kong in 1996 explained to a journalist researching the Hong Kong sex industry: “I wouldn’t have done this anywhere else, definitely not in London. It’s easy in Hong Kong, you always feel safe. Hotel security never stop Western women. And if you’re a British passport holder then you’ve got no problems. British get treated the same as the locals. If we get picked up we’d go to court and pay a fine. Anyone else would get deported” (Whitehead, 1997, p126). Charlie claimed to earn up to \$HK80,000 per month from prostitution, and reported that about half of her clients were Chinese men who were sexually ‘curious’ about Western women. The situation for most Thai and Filipino women working in prostitution in Hong Kong during the same period was very different, and remains so today. For them, it is difficult to enter Hong Kong except with a visa for work as either a domestic helper, or an entertainer. They typically have to rely on third parties to secure such visas, and even where the third party is a legally recognised recruitment agency, Thai and Filipino women who enter Hong Kong as entertainers remain vulnerable to exploitation and abuse. This is because their visa and work permit ties them to a specific employer who is then in a position to exercise controls over workers that could not be imposed upon women like Charlie. Similarly, Thai, Malaysian, Filipino and Mainland Chinese sex workers whose entry into Hong Kong is facilitated by members of a crime syndicate are likely to find themselves having to work without wages, sometimes under conditions of confinement, for periods of two months or more to repay their debt to the syndicate (Emerton 2001, Zi Teng 2000).

the sex trade in the receiving country, and upon the individual migrant's language skills, personal connections and experience as a sex worker. These factors determine the ease with which a newly arrived migrant can start to earn money from sex commerce without assistance from any broker or middle agent (see Lisborg 2000). In short, consumer demand for sex workers of particular national or racial groups would not be enough, on its own, to make individual members of those groups vulnerable to trafficking. It would also have to be coupled with one or more of the following:

- Structural pressures on persons of the sexualised group to migrate;
- Political and economic obstacles to free movement, generating dependence on third parties in the process of migration;
- Obstacles to independent earning within the sex trade, generating dependence on third parties to assist in starting up as a sex worker, and/or to protect migrant sex workers from arrest and deportation.

Once sex workers of a given national or racial identity begin to work in a given country's (or even city's) sex trade, it is possible that a multiplier effect occurs. It would seem logical to suppose that once the market for a particular "type" of sex worker is established, it can become financially worthwhile for middle agents to actively recruit women and girls who may not otherwise have considered migrating to engage in sex work in a particular location. The presence of such middle agents again increases the likelihood that migrants will be exploited in the course of migration or at the point of destination. However, there has been little systematic research mapping the growth of demand for sex workers of a given identity in a particular location and connecting this to patterns of migration.<sup>24</sup>

### *Demand for Commercial Sex with Children*

Children are defined in the United Nations' Convention on the Rights of the Child as persons under the age of 18. Using this definition, we can say that children are present in the sex trade of virtually every country of the world. The factors that make children vulnerable to commercial sexual exploitation and trafficking are beyond the scope of this report. However, because all the relevant international conventions and protocols are emphatic that a person under the age of 18 cannot give meaningful consent to their own commercial sexual exploitation, any child who has migrated within or across national borders to enter the sex trade can be described as a trafficked person if her or his migration

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<sup>24</sup> Demand for Thai sex workers in many European Union countries is fairly easily traced first to longstanding Western discourses that exoticise and sexualise the 'Oriental Other', and second, to the fact that significant numbers of European Union men have practiced sex tourism in Thailand over the past twenty years. The demand for women from Russia and the Newly Independent States in European Union countries cannot be explained in the same way, and there has not yet been any systematic research on the growing sexualisation of Russian and NIS women in Western European popular culture. We should also note that racist and nationalist discourse invariably sexualises men/boys, as well as women/girls. Despite this, male sex workers are almost entirely invisible in the literature and debate on trafficking. This may be because male migrants are less vulnerable to abuse within the sex trade, but it could equally be because researchers have overlooked questions about male sex workers.

was assisted or forced by a third party or parties for purposes of exploitation. Of course, not all children in prostitution are migrants,<sup>25</sup> and of those who are, there is much variety in terms of the processes that led to their presence in another city or country's sex industry, as well as in terms of the social organisation of their commercial sexual exploitation (O'Connell Davidson 2001b). But are there consistent "pull" factors in the shape of specific consumer demand for sexual services provided by persons under the age of 18? The research evidence on those who pay for sex with children is limited, but nonetheless points to the conclusion that people's motivations for sexually exploiting children vary. In particular, it is necessary to distinguish between those who seek sexual gratification from pre-adolescent children, and those who sexually exploit adolescents.

### *Demand for Pre-Adolescent Children*

Some people specifically seek out very young children as sexual partners, either on the basis of myths and misconceptions about sexual health (e.g., the mistaken belief that children are less likely to be HIV infected, or the myth that sex with a young child or virgin can cure AIDS and other STDs, or the myth that sex with a young child or virgin will improve potency or bring good luck in business ventures); or on the basis of a focused sexual interest in prepubertal or narrowly postpubertal children; or on the basis of a particular sexual interest in powerless and vulnerable prostitutes (O'Connell Davidson 2001b). Though there is evidence to show that children as young as 8 or 9 years of age do sometimes prostitute independently (for example, young children living on the streets may engage in what is sometimes known as "survival sex"), on the whole, access to sexually exploit young children has to be negotiated through adults or older children who exercise some kind of control or authority over them. It follows that if there is a demand for pornography and prostitution involving pre-adolescent children, it must largely be met through the intervention of third parties. Does this also mean that young children are vulnerable to trafficking for purposes of sexual exploitation?

Reliable data on the commercial sexual exploitation of pre-adolescent children are extremely hard to come by. There have been a number of high profile cases involving the abuse of young children by "paedophile rings", and some of these cases have involved the movement of abducted children within or across borders. However, it is difficult to know whether these cases are unusual, or whether they represent the tip of an as yet undiscovered iceberg (see ECPAT UK 2001). The available research on trafficking and prostitution would suggest that such cases are rare. Many studies have produced evidence to show that adolescents are sys-

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25 Research shows that some children in prostitution work both locally and independently, soliciting custom from streets, beaches, parks, bars or other venues in their own or a nearby town or city (for instance, Silvestre et al 1994, Montgomery 1997), and that some are exploited by local third party organisers of sex commerce. Indeed, many thousands of the world's children grow up in communities that are entirely economically dependent upon the sex industry, and enter the sex trade when they reach the age at which they are expected to do (which is usually below 18). So, for example, although some of the children who work as prostitutes in brothel districts in India and Bangladesh are victims of internal or cross-border trafficking, others are the daughters of female sex workers who already live in the brothel community (Uddin et al, 2001).

tematically included amongst those who are trafficked into the sex trade.<sup>26</sup> Few have found evidence of pre-adolescent children being trafficked into the mainstream sex industry. Though cases of trafficking of pre-adolescent children that have been documented are extremely disturbing and clearly warrant our attention and concern, they also appear to be outside the “norms” of the commercial sex industry in the contemporary world.<sup>27</sup>

This suggests that demand for sex with prepubertal children is not a common or widespread feature of the commercial sex market, and that those who have a specific wish to sexually exploit young children generally use alternative structures to access those children. Whilst such structures may in some cases be parasitic on the mainstream commercial sex trade, they can also operate independently of it. For instance, people who conform to the clinical definition of “paedophilia” sometimes group together to form clubs or networks through which to exchange images of young children being sexually abused, or to “share” victims of abuse amongst themselves. Other structures that can be used to secure sexual access to young children include those that allow for the adoption, fostering and institutional care of children, as well as systems through which rural children are sent to live and work in more affluent households in urban areas. We should also note that in most countries, mechanisms to monitor and protect young children who are brought into the country by a real or supposed relative are woefully inadequate, and it is therefore possible that children are transported in this way and then sold on to abusers. There is a need for more research on this subject, since at present, there is simply no way of knowing how many such structures exist, or how many children are affected by them (ECPAT UK 2001).

### *Demand for Adolescent Children’s Sexual Services*

In virtually every country of the world, it is possible to find adolescents working alongside adults in various forms of prostitution. There is clearly a demand for their sexual services. However, because no systematic or comparable cross-national research data is available on how and why clients select particular sex workers from the prostitutes available in any given setting, it is not possible to say whether or not adolescents’ presence in the sex trade is linked to a specific demand for commercial sex with persons under the age of 18. There are studies that suggest that for some clients at least, the question of whether a sex worker is 15 or 25 is a matter of indifference (O’Connell Davidson and Sanchez Taylor 1996, 2001). Most societies recognise adolescence as a period of life that differs markedly from infancy and early childhood, especially as regards participation in sexual and economic life, and in most countries, non-commercial sexual rela-

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26 For example, recent ILO research found that more than half of a sample of girls trafficked from Nepal to India were under 16, and one quarter were under the age of 14 when they were trafficked, but that ‘trafficking of girls seldom takes place before the onset of puberty’ (Kumar 2001). Research by the Italian Department of Equal Opportunity (2001) estimates that of 50,000 foreign prostitutes working in Italy, 35% are aged between 14 and 18, but does not refer to the presence of prepubertal migrant children in prostitution. A 1992 survey of sex workers in Thailand found that one third had entered prostitution when below the age of 18, and almost one-fifth were between the ages of 13 and 15 when they first started to work in the sex trade (Lim 1998).

27 However, it is worth noting that in some brothel communities in India, prepubertal children can be involved in the provision of sexual entertainment, performing erotic dances in the bars that customers visit before or after buying sex from women and adolescent girls who work as prostitutes (INSAF 1994).

tionships between adults and children who are above the age of sexual consent are legal and socially tolerated. From the viewpoint of some sex buyers, an adolescent who has reached puberty and is working as a prostitute is not a “child”, but a sex worker. When such clients pick out an underage prostitute, it is generally on the basis of her/his looks, demeanour, working style, and so on, not simply because s/he is an adolescent.

At the same time, though, we should note that youth is sexually prized in many societies, and adolescents therefore often conform more closely to socially constructed ideals of physical beauty than do older women or men. This means that clients who are concerned to find “beautiful” prostitutes may well be more likely to pick out adolescent sex workers. Moreover, many societies attach particular erotic value to the idea of sexual “innocence”, and because young people are imagined to be sexually inexperienced, passive and undemanding, there are some clients and pornography users who are especially drawn to underage sex workers.<sup>28</sup> Finally, we should note that in some settings, it is cheaper to buy sex from a child working in street or bar prostitution than from an adult sex worker in brothel prostitution, and/or to buy sex from an adolescent male than from a female sex worker (Naz 2000, Melrose *et al* 1998). A related point is that clients can often get adolescents to acquiesce to demands that a more experienced and confident sex worker would refuse. This could be another factor that helps to explain the demand for underage prostitutes.

To summarise, existing research tells us that persons between the ages of 13 and 18 make up a significant proportion of workers in the global sex trade, and that some of these adolescents are victims of trafficking. What existing research does not tell us is whether there are significant numbers of clients who specifically seek and/or are willing to pay more for sexual services from persons aged under 18, or whether they buy sex from teenagers because teenagers are available, cheap and/or compliant.

### **Third Party Exploitation of Trafficked Person’s Sexual Services**

For third party organisers of prostitution, some very obvious benefits can accrue from the use trafficked or otherwise unfree persons rather than “free” labour. First of all, because the third party need only pay for an unfree worker’s basic subsistence and perhaps provide some paltry sum in “wages” (which is often recouped through over-charging for accommodation, food, clothing, medicine and so on), s/he gets to keep a larger “cut” of the monies generated by the sale of a trafficked person’s sexual services than could be secured from a “free” worker. Second, the use of unfree persons can help the third party to circumnavigate problems and costs that may otherwise be associated with labour recruitment and retention. Depending on prostitution law and law enforcement practice and on the social organisation of prostitution in any given setting, it is sometimes relatively easy for a prostitute to by-pass third parties and work independently on

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<sup>28</sup> Demand for sex workers who embody social ideals of youthful beauty and sexual precocity is not always met by underage prostitutes and performers. Thus, heavily regulated sectors of the sex trade still manage to cater to demand for “teen” pornography, prostitution and sexual entertainment through the use of sex workers who are actually over 18 but look younger.

the streets. This can represent a serious problem for third parties whose “businesses” cater to the cheapest end of demand, and/or who seek to extract a large cut from prostitutes’ earnings. If a woman or child can earn more by prostituting independently, or earn the same from a smaller number of “tricks”, s/he has no incentive to enter into an employment relation with a third party.

One way around this problem is to recruit migrant labour, since migrants often lack the language skills and local knowledge necessary to set up independently, and are often driven by economic desperation to accept lower wages and poorer conditions than locals. However, having recruited migrant workers, there is always a danger that they will quickly familiarise themselves with the local situation and quit, either to take up a better job offer or to work independently. One way in which third parties can prevent this is by tying such workers to them through debt. Another way is through the use of confinement, force and/or threats of violence. Furthermore, where “unfree” labour is used, it is possible for the third party to exercise much closer control over work-rate and the throughput of clients, and to compel the prostitute to accept clients who would be rejected by “free” workers (for example, because they are violent, or request unprotected sex or sexual acts that the worker finds unacceptable). Unfree workers can – in certain circumstances – thus be forced to generate higher earnings than would a “free” employee. Though trafficked persons can undoubtedly offer these benefits to third parties, it is crucial to note two things about third party demand for trafficking.

### *The Heterogeneity of Third Party Organisers of Prostitution*

Third party organisers of prostitution are not a socially, morally or politically homogeneous category of persons, and do not all adopt the same approach to their economic activity. Women and children, as well as men, are involved in organising prostitution, and it is not uncommon for an individual “career” in the sex trade to start with selling sex, then progress to organising the prostitution of others. Regardless of their age or gender, a good many people’s involvement as third party beneficiaries of the sex trade is precipitated by factors such as poverty, lack of alternative economic opportunity, absence of educational opportunities, domestic violence, drug addiction, and/or a range of exclusionary social practices and policies based on discriminatory beliefs about gender, race, ethnicity, caste and/or sexuality. Indeed, some of those who are involved in recruiting, transporting and/or exploiting trafficked persons were themselves once victims of trafficking.

Next we should note an important distinction between those whose involvement in prostitution (whether legal or illegal) is guided by “normal”, mainstream rules of business practice, and those whose involvement in prostitution takes the form of simple and often brutal extortion. Amongst the former group are people who, for either ethical or business reasons or both, have no interest whatsoever in exploiting the labour/services of trafficked persons. Indeed, there are cases in which club owners have sought ways in which to regularise the immigration status of the migrant sex workers they employ (Agustín 2001), and in



some countries third party employers' associations are amongst those calling for the application of labour standards law to the sex industry. Such calls are often coupled with demands for clampdowns on street prostitution, and thus reflect employers' economic interests rather than any altruistic sentiment, but they nonetheless highlight the fact that not all third parties provide demand for trafficked persons. Even third parties who enter into highly exploitative contracts with prostitutes (for instance, those who use systems of indenture to tie workers to them for up to 18 months) cannot be treated as a morally homogeneous group. Some of them beat and cheat the women and children exploit. Others do not use physical force and honour the terms of the contract.

Whether or not we believe that prostitution can or should be recognised as a form of wage labour, the fact is that some third parties understand themselves as employers and perceive prostitutes as employees, and so attempt to conform to, or even better, the employment norms that prevail in the local sex industry. They are at some level concerned to win or manufacture the prostitute's consent to the arrangement that exists between them, no matter how exploitative that arrangement may actually be. Other third parties (who are almost certainly in a minority) do not view the persons they exploit as "employees", or seek to otherwise legitimise or normalise the powers that they exercise over prostitutes. Instead, they control and exploit prostitutes simply through the use of violence or the threat of violence, and/or confinement, or else treat women and children as objects to be sold on to other third party organisers of prostitution.

### *The Relationship between Consumer and Third Party Demand*

The "employment relations" and control strategies that third parties adopt are shaped in part by the particular market conditions within which they operate. For example, where there is a consistently high volume of demand, brothel owners have an incentive to devise organisational forms that compel prostitutes to accept a high throughput of custom. Where demand is low and/or fluctuating, they have an interest in organisational forms that force prostitutes to shoulder the cost of running the brothel and to keep trade ticking over. Employers also adjust the organisation of their businesses to cater to particular segments of demand. So, for instance, they may target the cheapest end of the market, in which case it will be important to recruit cheap labour. Alternatively, they may cater to wealthier clients and so seek to recruit and retain workers of the age, appearance and national/racial identity that is most highly prized in the particular location where they operate. Some employers will even pay for women to undergo plastic surgery in order to conform to the dominant ideal of beauty in a given region, and then claw back the costs, with interest, from their earnings.<sup>29</sup> Although demand for cheap sex and demand for sex with particular "types" of person can be met through the employment of "free" workers, it is also possible that employers' desire to meet these segments of consumer demand could, in certain circumstances, act as a stimulus for trafficking. However, no detailed and

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<sup>29</sup> Information provided by June Saetang, GAATW.

systematic body of research evidence is currently available either to support or refute such a claim.

A more likely connection between consumer demand and third parties' employment practices concerns the fact that clients very often prize the presence of new workers in a brothel, club or street scene (many do not wish to use the same sex worker over and over again, and/or value an extensive "choice" of workers). This helps to account for the fact that those who employ "entertainers" often offer very short contracts and rely on agencies and other third parties – who may or may not be scrupulous – to supply them with a stream of replacement workers (Zi Teng 2000, Rodriguez *et al* 2001, Jonsdottir 2001). It could also link to trafficking in the sense that "unfree" workers may be more easily moved between brothels and/or sold on to third parties in other areas.

### **The Role of the State**

Because female prostitutes are so heavily stigmatised, and viewed as unlike other women or other workers, the civil and human rights of females who work in prostitution in the contemporary world are routinely, and often grossly, violated. Prostitutes variously face arbitrary detention, deportation, forcible eviction from their dwellings, enforced health checks - including HIV testing, forcible "rehabilitation", corporal punishment, even execution; few states offer prostitutes adequate protection from violent crime or abusive employers, and prostitutes are often victims of crimes perpetrated by corrupt law enforcement agents, including rape, beatings and extortion.<sup>30</sup> Within this, it is very often street prostitutes who bare the brunt of efforts to control and suppress prostitution, another factor that renders prostitutes especially vulnerable to abuse and exploitation by third parties. Migrant prostitutes' vulnerability is heightened where state policies on immigration force them into a relationship of dependency with a third party, thereby equipping the third party with the power to either harm or help the migrant. So, for example, some countries admit migrant women on "entertainer" work permits for periods of six to twelve months. Often, these work permits tie the worker to a named employer, thereby making her entirely dependent on that employer for her immigration status and subsistence. Meanwhile, in many countries, "entertainers" are not covered by labour law or minimum wage protection, and where they are covered by labour legislation, it is not always enforced (Emerton 2001, Zi Teng 2000, AMC 2000). In this way, the state provides employers with a *carte blanche* to treat "entertainers" as they will. The employer is left free to choose whether to pay the "entertainer" so little that she is forced to prostitute in order to subsist, and/or to confine her in order to prevent her from "moonlighting" in street prostitution, or whether to pay her the going rate and respect her human rights. The fact that these powers are presented to those who employ "entertainers" in countries where prostitution is illegal

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30 The scale and severity of the human rights violations perpetrated against female prostitutes in the contemporary world was recognised in the 1992 general recommendation made by the Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW) to include prostitutes among those who needed to be offered equal protection under the law (Kempadoo and Ghuma 1999, 293, see also Alexander, 1997).



is symptomatic of a more general tendency for governments to approach the commercial sex trade “with one eye open, the other eye shut”.<sup>31</sup>

Third parties who employ prostitutes in brothels, nightclubs, escort agencies and so on, do not make decisions about employment practices, labour control and work organisation in a vacuum. Like all employers, they decide on strategies that are feasible and profitable in the particular social, legal and institutional context within which they operate. If, through a combination of action and inaction, the state strengthens the hand of third parties and weakens the bargaining power of sex workers, it helps to construct an environment within which it is possible and worthwhile to exploit trafficked persons’ sexual services. Equally, the decision to use brute violence to extort money from another person’s prostitution is taken in a particular context, namely one in which few resources are devoted to investigating or prosecuting crimes against prostitutes and where the penalties that attach to such crimes are lower than those applied to other illegal money making activities.

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31 In North Cyprus, for example, recent legislation on nightclubs and similar establishments allows nightclub owners to sponsor foreign women in order that they may be issued a permit to work as “konsomatrices” (hostesses who supposedly drink and dance with guests). The legislation forbids the sale of sexual services in nightclubs and makes konsomatrices who sell sex liable to a fine and/or two years in jail. And yet the same legislation requires konsomatrices ‘to undergo extensive and periodic health controls for sexually transmitted diseases’, indeed, women who apply for a konsomatrice work permit upon arrival in North Cyprus are ‘taken directly from the airport to a hospital ward’ where they are tested for a range of STDs (Rodriguez et al 2001, p5).

## 4. Domestic Work

### **General remarks on paid domestic labour**

Although statistics are hard to come by, there is little doubt that the market for paid domestic labour is vast. It is a feature of households all over the world, from Russia to Nigeria, Spain to the Ivory Coast. Domestic workers are employed in the households of the fabulously wealthy, of the middle classes, and also of the poor (Salzinger 1991). In some countries it is thought to represent the largest female employment sector. As with sex work, this market is incredibly diverse. Domestic workers may be “life-style managers”/concierge services<sup>32</sup>, butlers, nannies, daily cleaners, elder carers, pet carers, house or yacht minders, or simply a status symbol for their employers. Their labour can cover a wide range of tasks, including care of the elderly, washing utensils, disposing of waste, reading to children – the list is endless – but put crudely, domestic labour can involve either caring or cleaning tasks, or both. Next we should note that the social organisation of domestic work varies. A domestic worker may live-in with an employer, live-out working for a single employer, or work part time for several employers. These categories are not mutually exclusive and may change over time. Meanwhile, domestic workers can enter into different types of employment relation. Some are employed by an individual who is simultaneously their employer and their “client”, i.e. the receiver of services. Others are employed by one private individual, but provide services to another (for instance, the employer’s elderly parent). Alternatively, domestic workers may be employed by an agency (multinational or one person operated) that sub-contracts their services. Domestic workers may also be self-employed.

The bulk of paid domestic labour takes place within the informal economy (Smet Report 2000). It may be contracted informally, but it is also often explicitly exempted from labour and other legislation or subject to discriminatory provision<sup>33</sup>. Even when domestic workers are covered by labour legislation there are very real problems with implementation. It is also important to note that the borders between paid and unpaid domestic labour are extremely nebulous: domestic labour is often performed unpaid in a wide variety of circumstances in return for board and lodging, most obviously by wives and children. There are many states where children are “adopted” from relatives, often rural, to do unpaid domestic work.<sup>34</sup> Similar arrangements of work in return for food, accommodation or protection are not confined to quasi-kinship arrangements, and have been observed in Europe, the USA and Canada (Anderson 2000, Romero 1992). The lack of distinction between paid and unpaid domestic work can become apparent even within a single employment situation: employers may ask for or workers offer “favours” which are unpaid, and such arrangements may continue even after the employment arrangement has ceased (Anderson 2000).

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32 Who provide a range of personal services from booking holidays, buying birthday presents, shopping, cooking, finding plumbers etc

33 Countries with discriminatory provision include Costa Rica, Croatia, Grenada, Japan Jordan Korea, Malaysia, Norway, Qatar, Sudan, United Kingdom, USA. With thanks to Gloria Moreno-Fontes for compiling this list.

34 Countries where this system operates include Benin, Bolivia, Ghana, Haiti, Indonesia, Mongolia, Togo, Tunisia.

As with commercial sex or any other market, the market for paid domestic labour is socially constructed and socially regulated, which is to say that it is embedded in and formed by a social as well as an economic context (see Peck 1996). The highly gendered nature of this market is one of the most obvious and visible aspects of its social construction. Domestic workers are predominantly female. In many countries of the world, domestic work is imagined as “naturally” women’s work, not simply because the doing of it is understood as an extension of women’s natural capacities, but also because the home is constructed as “safe” for women and children, despite the extensive empirical evidence that shows otherwise. Yet domestic work is not exclusively female (Hansen 1985), particularly in some states. A survey conducted in Kathmandu in 2001 found that more than half of child domestic workers are boys. Male workers in private households can be found undertaking both high status work (as chauffeurs, gardeners or butlers for instance), and extremely low status tasks, such as cleaning toilets. They may be employed in the care of elderly people, where women may not be seen as strong enough to do heavy work. This latter case seems to be more common for men from racial/ethnic minority groups. Finally, we should note that in many areas of the world, domestic work has traditionally provided employment for internal migrants, and today this sector is increasingly recognised as an employer of both internal and international migrants.

### ***The Demand for Domestic Services***

Before exploring the existing literature on the demand for domestic services, it is necessary to stress two points. First, this literature has, with a few notable exceptions (for instance Momsen 1999a, Chaney and Castro 1984), tended to concentrate on the USA, Canada, and European countries. Moreover, much of it has been written by middle class women, many of whom themselves employ domestic workers and may therefore have a less than impartial perspective on the phenomenon. This is also true of policy-makers, politicians, activists, trades unionists and many others engaged in debates around domestic labour. Migrant domestic workers themselves, particularly if they are earning foreign currency, may employ domestic workers to care for their children and do household chores while they are doing the same work for wealthier people (Hondagneu-Sotelo 2001, Hochschild 2000, Anderson 2000, Parrenas 2001). This needs to be taken into account when reading both theoretical and policy-orientated literature on domestic work, just as we would need to be cautious in our reading of research on the commercial sex trade if we knew it was often conducted by sex workers’ clients. Second, the literature on domestic services often assumes a distinction between cleaning and caring work, and this is reflected in the review of research and debate below. However, this dichotomy is problematic, in the sense that it is impossible to provide care for another human being without also performing tasks that would be understood as cleaning work. Carers, particularly if they are live-in, can provide “two for the price of one”, working as both a carer and as a housecleaner (Wrigley 1995).

### *The social production of demand: caring*

The demand for paid household care is recognisably influenced by demographic and social factors. A need for carers at home is constructed by policies that promote care in the community and “family” orientated care, as well as by a lack of childcare and after school provision. Meanwhile, states with ageing populations require carers to look after their elderly. Such carers are typically female. Yet in many places, fewer women are available to provide such care as a result of various social, economic and political factors. This is not a straightforward equation of course: poor women have long left their homes to work, or there would be no history of domestic service. Many women leave their children with no carers, bring their children to work or take on home working, because they have to. But nevertheless, under certain circumstances, including demise of extended family structures, mobility, no provision for care outside the home, availability of cheap labour, the feminisation of a segment of the productive labour force fuels a demand for paid carers. However, though these processes may explain the rise in demand for paid care services, they are not, in themselves, enough to explain why there should be demand for workers in private households. Private nurseries and nursing homes for example are another means of responding to the need by private individuals. The ideologies of care and of care’s relation to the home are important to appreciating why demand for care services is demand for services in the private household (Rose 1993, Yeoh and Huang 1995, Wrigley 1995, Clarke-Stewart 1993, Gregson and Lowe 1998). If it is already common practise to employ labour in the home or if care outside the home is regarded as unsuitable private household labour may seem the “natural” choice. There are also structural constraints and the fixed hours of institutional care often do not mesh with the demands of careers, the world of work does not accommodate the labour of care.

### *The social production of demand: cleaning*

We have already stated that domestic work is not only about “caring” but also cleaning houses, washing up, ironing etc, both as chores related to caring work, but also as jobs in themselves. There is a notable lack of literature on demand specifically for cleaning services inside the home. While the local increase in such demand is acknowledged (European Foundation 2001, ECOTEC 1996) the reasons for this demand have gone largely unexplored. The invisible and gendered hand of social institutions and practices is important, as is labour supply, the availability of someone (paid or unpaid) to do the work of servicing such presentation. One must also recognise the importance of physical infrastructure and social support: washing clothes and collecting water for instance can represent hours of hard labour, or the touch of a switch. Certain domestic chores, by their very nature, must take place in the home – while one can cook a meal “outside” and bring it in, one must, for example, enter the employer’s home to polish their floor. Furthermore, domestic workers themselves can be a status symbol, a means of conspicuous consumption (Pei-Chia Lan 2000, Veblen 1994; Anderson 2000). Paying for domestic work facilitates consumption, and the reproduction of consumers as well as of workers. The maintenance of stan-

dards has social implications for both women and men, we go “out” into the world marked by the home (most obviously in washed and ironed clothes). The home itself is a site of consumption and status (Bourdieu 1984) where certain goods are displayed and consumed and where “personality” and social status are expressed. The messages and means of such expression and display are of course socially, culturally and economically determined.

The “need” for paid domestic labour in private houses therefore requires considerable deconstruction and contextualising, even in the most apparently straightforward of cases.

### ***Demand for “Trafficked” and Otherwise Unfree Labour to Work in Domestic Service in Private Households***

Domestic service is frequently referred to as an area of labour into which people, particularly women and girls are “trafficked” but there has been little systematic empirical research done into the relation between domestic work and trafficking, which has tended to focus on sex work. The inclusion of domestic labour in trafficking debates highlights the difficulty of necessarily linking trafficking and illegal migration since there are those to whom the Protocol definition of trafficking undoubtedly applies who are legal migrants, but who are nevertheless deceived, imprisoned and exploited. For example in 2001 the Committee on Equal Opportunities for Women and Men of the European Commission drew attention to the legitimate practise of diplomats and international civil servants bringing their domestic workers on a “special card”, and the situations of “slavery” that many such workers endure. Indeed such state immigration rules and practises which make domestic workers dependent on their employer (whether or not a diplomat) for their legal immigration status, only encourage such practises<sup>35</sup> (Ai Yun 1996, KOK 2001, Anderson 2000). Those who are undocumented may also be forced into dependence on their employer as a result of their immigration status, fearful of deportation or imprisonment, and with no other employment (survival) opportunities. This should not be confused however, with a *demand* for trafficked labour, rather it suggests mechanisms by which labour may be exploited and abused with impunity.

Despite the lack of empirical research it is possible to hypothesise that trafficked/unfree labour in domestic service sector is far more likely to be live-in than live-out since live-in work is isolated and creates a relation of personalised dependency on an individual or household. This having been said, as with sex work, working conditions cannot be read off from the nature of demand for particular services. So while in some cases nannying for a wealthy family may command good wages and conditions, in other cases it may, whatever the outward

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35 In Singapore for example all work permits (not just those for domestic work) are issued with the employer's name on them. In addition employers of domestic workers must furnish a security deposit of \$5,000 and a “foreign domestic worker levy” of \$345 a month – often greater than the monthly wages of the worker. The Singaporean state collects \$414 million a year from the employment of 100,000 foreign domestic workers. “Payment of the bond allows Singaporean employers to justify even the most extreme of action they can take to ensure that the behaviour of maids does not jeopardize the monies posted with their government. The bond sets up employers as security officers, thus emphasizing not only their power over the maids but also implying state sanction for this power... on top of this, with the payment of the monthly levy, employers get the feeling that they pay a large inflated sum for the maid, justifying their ownership of the maid, body and soul.” (Al Yun: 41).

appearance, be in fact a relation of servitude and misery. For example, the Washington based Campaign for Migrant Domestic Workers Rights has documented widespread abuse of women issued special visas to travel to the USA as domestic workers for officials of international agencies (such as the World Bank and International Monetary Fund) and embassies (Human Rights Watch 2001).

### *The demand for cheap and controllable household labour*

It is important to bear in mind that domestic work in private households is generally not regulated and belongs to the “poor work” sector. There are also structural reasons for the undervalorisation of domestic labour (Plantegna and Sloep 1995, Anderson 2002). Moreover, individual employers generally produce no direct profit from the domestic worker’s labour power, rather the worker produces services that are consumed.<sup>36</sup> Employers frequently calculate the cost of the workers’ “reproduction” as part of their expenses – so the cost of the food, housing, bills etc incurred are calculated as employer’s outgoings and worker’s incomings. This may be extended for migrants to include the costs paid out by the employer to cover the worker’s recruitment and transport. A worker who has migrated voluntarily then finds herself debt-bonded to the employer (this may be reinforced by immigration legislation), working for no payment, unable to change employer or to return home until the debt is repaid. If not free, migrant labour is often cheap, and sometimes migrants will be given wages related to their projected income in their country of origin (KOK 2001). In states where there is a substantial primary sector, particularly where there have been attempts made to regulate domestic work and incorporate it into the formal economy with all the administrative and financial requirements this makes of employers, migrants are more likely to consent to working outside these requirements, particularly if they are undocumented.

In many states there is a demand for live-in work. Migrants are more likely to agree to work live-in, with all the advantages that this confers on employers, because of the provision of accommodation and food, and limited exposure to different language/culture/police etc. As discussed above, live-in labour can substantially ease the difficulties in reconciling productive and reproductive spheres. However, the many instances of imprisonment and employers controlling workers’ movements suggest that this is not simply a practical arrangement, but a strategy for domination.

One of the reasons for imprisonment is retention. Since domestic labour is largely within the informal sector, workers are theoretically free to leave at any time. Indeed the freedom to retract from an employment relation is one of the only means that workers have of limiting employers’ powers over them, being not subject to statutory legislation and having limited opportunities to organise. Since domestic work is badly paid and often entails working for long hours, workers have every incentive to move frequently until they find the most rewarding job. This can clearly be problematic for employers, particularly for those who are looking for paid carers, or who have particularly precise requirements

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<sup>36</sup> There are however many instances of employers requiring workers to work in their business enterprises, or to perform services for employers’ family and acquaintances for which the employer might charge.



in the doing of household work. An employee who knows how the household works, or who has established a relationship with a child or elderly person in the home, is not easily replaced. Labour does not have to be trafficked in order to be tied to employers. As noted above this may be a legal requirement for a work permit and undocumented but “free” labour may be similarly structurally tied, particularly when workers are migrants. Informal social networks are an important means of breaking such dependence, operating not just as an emotional support, but also assisting people to find work. They are one of the means by which the market is created, particularly for undocumented workers, who may well have used such networks to migrate in the first place (Hondagneu Sotelo 2001). Labour that is isolated from such supportive networks is therefore easier to retain whatever the living and working conditions experienced. Domestic workers have access to employers’ private spaces, they often are privy to family secrets. There are additional social reasons for employing domestic labour that has no other contact with the employers’ networks.

Labour retention may be viewed as an aspect of labour control: how can one maintain control of workers when their interests conflict with employers? Clearly social isolation and illegal immigration status place greater powers of control in the hands of employers.

### *Demand for “Other” domestic workers*

The use of the market and contractual relations does not mean that domestic labour is not constructed as “natural” for certain groups, indeed one’s search for the perfect domestic labourer may be a question of finding the right genes. Domestic work is “natural” for some groups (usually of women). The use of “Other” women to do paid domestic labour preserves the gendering of this work (which is not to say that there are not male domestic workers, often de-gendered by race) but maintains that it is work for certain kinds of women thereby entailing the embodiment of subordinate status.

Markets for domestic labour are often heavily gendered and racialised, which may mean on the one hand the constructing of a “fictive, universal, nonwhite, female, noncitizen Other”, who is in some way naturally suited to domestic work, and on the other, the hierarchising of women by distinctions such as skin colour, ethnicity, religion, nationality caste, and so on, as being appropriate for different types of domestic work and as meriting different levels of wages (Bakan and Stasiulis 1995, Rina Cohen 1987, Steill and England 1999).<sup>37</sup> Markets for domestic labour are highly segmented with certain groups deemed more suitable for certain types of jobs than others, not just by individual employers but by government immigration policies, by placement agencies, and by domestic workers themselves eager to boost their position in the labour market, enhancing their own social status by drawing on hierarchies of race and ethnicity (Hon-

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<sup>37</sup> Bott (2001) who interviewed white and Indian origin employers in London has observed that an employer’s preference for Filipinas can be used by them to demonstrate that they are not racist (“I’m not racist I’ve got a Filipino maid”), and that

A system emerges whereby class and gender combine with race, in effect causing an Other-based status hierarchy that centres around racial differences that transcend the black/white dichotomy. Thus excessive wealth (and the notion that this necessitates employing a domestic worker) combines with the political, ideological and social power associated with white and Indian employers alike, to gain them access to objectifying hegemony

dagneu-Sotelo 2001, Bott 2001, Mattingly 1999) The form this “Otherizing” takes depends very much on social, economic, historical and geographical (among others) contexts – in general one doesn’t construct these identities as one pleases, though individual households may express “eccentric” predilections, if they have lived abroad for example, they may prefer a domestic worker from that place. Constructions of the Other are deeply socially embedded, and local considerations are key, through clearly there are also global and historical processes at work (McClintlock 1995, Pratt 1997, Momsen 1999).

The demand for “Other” domestic worker does not necessarily translate into a demand for migrants, internal or international i.e. potentially trafficked people. It can be constructed or reinforced by social and cultural practises governing clothes (ragged or uniforms), demeanour, accommodation, food, names called and in tasks required – subservient ceremonial performance). As with sex work, the link between racism, nationalism and employer preference is complex and depends on migratory pressures, immigration regulation, and other historical, economic and political factors, most particularly the ease with which one can live without using third parties. It is important to note that some employers of domestic workers may be demanding “sameness”, or a mixture of sameness and difference and that this too may be reflected in a demand for migrants (Yeoh and Huang 1995).

### *Demand for child domestic workers*

Child domestic workers are thought by UNICEF to constitute the largest group of child workers in the world (UNICEF 1997). The children employed as domestic workers are often pre-adolescent. With certain country exceptions (including Nepal and Bangladesh, where 17% of child domestics were found to be boys), the majority of child domestic workers are girls, and ILO-IPEC estimates put the proportion at 90%. In analysing this phenomenon and its relation to unfree labour it should be remembered that children, particularly pre-adolescent children, may not be legally able to formally contract, but that does not mean that some are not actively seeking work. While working in a private household is falsely constructed as safe for women and children, one should equally beware of assuming that the genetic family is the “best” place for children: abuse at home may have caused children to leave, while some children find that the conditions in which they live as a domestic worker are better than those they left. Parents or guardians may encourage or force their children to work, or indeed find their children have to work as bonded labour. There have been documented instances of children being kidnapped, moved and forced into domestic labour (ILO-IPEC 1998) and these cases are thought to be on the increase.<sup>38</sup>

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38 A survey in India noted that 17% of domestic workers were under 15 years old (UNICEF, State of the World’s Children 1997).

A survey of domestic child labourers in Nepal found almost two thirds of them were aged between 10 to 14, 30% aged 15–18, and 2% aged under 10.

In Bangladesh, a survey of child domestic workers found that 24 percent were between five and 10 years old. “Children in Domestic Work” fact sheet from Abolishing Extreme Forms of Child Labour (Geneva: ILO, 1998)

In Ghana 80% of girls working as domestics were between 10 and 14 years old

In Venezuela more than 25% of child domestic workers are under 10 (Child Labour: Targeting The Intolerable, ILO Geneva November 1997)

The large numbers of children present in the sector is not in itself evidence of demand as such for child labour: it may be a consequence of the demand for cheap labour, not only in terms of wage, but also reproductive costs, as children are considered cheaper to feed. Indeed, in many instances it seems that children are not paid at all. In Haiti for instance the situation of “a child, in exchange for taking part (on an unpaid basis) in a family’s household work, receives his board and lodging and education and care” is recognised in law (UN Economic and Social Council, Commission on Human Rights Sub-Commission on Prevention of Discrimination and Protection of Minorities ‘Report of the Working Group on Contemporary Forms of Slavery’ 19 July 1996). When wages are paid they may be given to parents or guardians, or held by the employer thereby tying them further to their employer. Children may also be bonded to an employer to pay off parental debts. Pre-adolescent children may also be easier to “control”. This is particularly so if children are a long way from their social networks. Thus a demand for child labour may be a manifestation of demand for cheap and controllable labour as discussed above. It may also be evidence of demand for controllable and “Other” labour and child domestic workers are often from indigenous or other low status groups (Black 1997, ASI 1996).

The figures may also be evidence of large supply of orphaned or unsupported children, particularly following or during conflict.<sup>39</sup> It can be easier too for children to be moved across international borders than adults (European Commission 2001). It has been noted that fictive kin relations are frequently used in households in order to manage the complex relations with domestic labour. These relations may be easier to employ with a child worker (who may indeed be a poor relative). Since domestic work is generally considered unskilled, low status, and often not “work” at all, for complex economic, social and cultural reasons, it is particularly appropriate for children. This may be endorsed under traditional arrangements for child domestic labour (e.g. Vidomégon in Benin; criadito in Bolivia; restavek in Haiti), which also may involve internal migration from rural to urban areas. As such arrangements are increasingly commercialised and distorted by economic hardships, HIV/AIDS and other disasters, recruitment agents are becoming more systematically involved, and very often children are working in households very far away from their families.

There is some evidence of demand for child labour *per se*, and that the children employed are often pre-adolescent. An Indian survey cited above found that girls aged 12 to 15 were the preferred choice of 90% of employing households. As well as reasons mentioned above, children may be specifically sought after as companions and servers for employer’s children (Blanchet, 1996). They may also be preferred as non-sexualised labour. Employers do not have to be concerned about their worker’s pregnancy (a serious preoccupation in some places) as a consequence of sexual activity either outside or inside the house.

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39 Recruitment of child domestic labour in developing countries has been linked to the migration of women to work abroad as domestic workers (Lacnet). The ILO noted in Sri Lanka that the conflicts had left many children displaced and easy prey for “job placement agents” who picked them up from streets and refugee camps and sold them into employment. Following the Rwandan genocide a Ministry of Labour study found significant problems for child domestic workers. It was estimated that 200,000–400,000 children lived with families other than their own, often forced to work as domestic workers. Until the 1994 conflict child domestic work had not been identified as a significant phenomenon in Rwanda.

### **Third Party Exploitation of Trafficked and Unfree Domestic Workers**

As with third parties' exploitation of migrant women in prostitution, third parties working with domestic workers are taking money from the trade of existing exchange values, those third parties profiting from migrant domestic workers profit from organising of the movement of labour as well as acting as intermediaries between worker and employer<sup>40</sup>. The demand for domestic labour is, as we have discussed above, not undifferentiated. It tends to be for migrants from specific geographical locations, ethnicities etc where translocal or transnational social networks are already established (Kyle and Lian 2001), and levels of commodification of such networks vary, from one person paying another when she recommends her for a job to highly organised operations, some of which may be clandestine, some criminal, and others perfectly legal. Agencies are differently organised: some are based in receiving countries, employing recruiters in sending states, others may be independent recruiting/employment agencies collaborating to mutual profit. Some agencies are related to important political figures (Ko Lin Chen 2000, Michael Young (*undated*)). Participants in the chain of facilitation may include business people from the recruiting country, facilitators in countries of origin, money-lenders, sub-agent document facilitators, travel agents, safe houses. At various points in the system, third parties charge more than officially sanctioned rates<sup>41</sup>. While we have designated those profiting in these capacities as third parties, it is important to remember that these third parties may be other migrants (including children) and employers themselves.

In general, paid domestic work is not subject to the same social censure as paid sex work, and it is therefore more common to have legitimate businesses organising movement and employment for domestic labour. Moreover, recruitment, transport and exploitation of labour are frequently linked in legal migration of domestic workers i.e. there is an active conspiracy between third parties who profit from recruitment and transportation, and those who exploit migrants' services. Consider this typical perfectly legal process: migrants are approached by private recruiters in their countries of origin, and pay a non-refundable fee to the recruiter/agency to organise their immigration status and employment. The potential migrant may raise the money for this fee by borrowing from the recruiter or associated money lender, and employment abroad is often the only feasible means of repaying the debt. Debt-financed migration makes workers particularly vulnerable to exploitation. The recruitment agency works with an

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<sup>40</sup> It is worth mentioning that not all agencies are commercially driven. Some Christian organisations may be motivated by ideologies of suitable employment for women and by the desire to "help" and particular embassies (notably the Philippines) may be forced into de facto job provision by being contacted by people wanting to employ domestic workers.

<sup>41</sup> The managing director of a company in the Middle East gives his personnel manager money to hire ten new workers, covering their airline tickets and all other expenses. The personnel manager then calls a recruiting agency and says, "Get me ten people; I don't have money for their tickets". The job agent there calls his Sri Lankan connections and asks them all what sorts of commissions they can pay him for ten jobs in the Middle East, for which he can't pay the airfare. The Sri Lankan agencies bid, some saying \$200 for you, other saying \$250, and the bargaining continues until the agent in the Middle East chooses the highest price. So some poor worker in Sri Lanka ends up paying \$400 commission for the agent in the Middle East plus the price of the ticket, plus the passport and medical fees, and the fees for the SLBFE. It adds up to \$1,000 or so. The middleman takes all the profit, and the laborer borrows money on interest to go abroad to work" (Gamburd 2000)

employment agency (which may or may not be under the same ownership) in the receiving country, which finds an employer. The employer too has to pay a fee, often higher than that paid by the worker, but not incurring debt to do so. Workers need a contract or employer's guarantee in order to obtain a visa. When this arrives they may leave. On arrival in the host country, they will either make contact with the agency or proceed directly to the employer. Passports are commonly held by agents or by employers.

In his analysis of agencies and migrant workers in Lebanon, Michael Young has noted that agencies charge very high rates to employers, and ensure, on behalf of employers, that workers "are provided with a bare minimum". Since the bulk of the profit comes from the employer, agencies who wish to keep their reputation, and who may have to provide replacement workers in case of problems, have a vested interest in ensuring that the employer is satisfied.<sup>42</sup> Moreover, these legally sanctioned avenues of migration may involve many illegal practices, as mentioned above. False documents, such as passports (many states adopt require that migrants and/or domestic workers must be above a certain age, or of a certain religion) and medical certificates can cost considerable amounts. Even when not falsified, documentation can be extremely expensive. Contract substitution is a common practice, whereby workers, having signed a contract in their country of origin, are made to sign a second, more onerous contract once they have arrived. This may be in a language they don't speak and may bind them for longer than they intended at lower wages (Young (*undated*)), effectively forcing them to labour.

There is then great scope for profiteering, exploitation and coercion, and therefore for trafficking, within legal but unmonitored systems of labour migration with third parties operating for profit. Some of the factors which intersect with this process to make those coming to work in private households vulnerable to trafficking and other forms of unfree labour include:

- a) the poverty and marginalisation of those in demand/seeking to migrate, for work in private households (often in turn related to gender and age);
- b) close links between the financing, transportation and employment of migrants;
- c) inaccessibility of formal government migratory channels;
- d) enforced dependency on third parties;
- e) third parties unmonitored and unregulated;
- f) high fees charged to employers.

Of course not all migration to work in domestic service is legal, and workers are even more vulnerable to exploitation and abuse if they enter through such channels are undocumented. Moreover while in general for the process described above to be considered trafficking the third party would have to be involved in some form of deceit (contract substitution, or more general deception about

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<sup>42</sup> Young cites the case of a woman from Sri Lanka, badly beaten by the agency when taken there by an unhappy employer to be taught a lesson. Soon afterwards the employer travelled abroad and left Mendis at the agency for the duration of her trip. The employer "saw the agency as something tantamount to a dog pound... (this) exposes how agencies can be perceived as allies by abusive employers".

living and working conditions in the receiving country), but not necessarily physical coercion, there are also documented instances of physical force being used. The kidnapping and sale of children in Benin and Nigeria (ILO 2001) for example suggests that while profit may be made from placing them in domestic service, the children themselves either do not have the motivation or do not have the means, to migrate. Such processes, where agents make a financial investment, make employees particularly vulnerable as they may mean that some link in the trafficking chain has a vested interest in ensuring that there are no problems between the worker and the employer, which works to the worker's disadvantage.

Formal recruitment/employment agencies are not the only means of employers finding workers for private households. At micro level employee and employer informal networks are very important in the distribution of employment in private households (Romero 1992, Glenn, 1981, Mattingly 2000). "Direct hire" or "ticket jobs", using informal networks is also common. However, there is not an easy distinction between such systems and agencies, and informal networks may also work for profit. Mediating contacts (often themselves migrant domestic workers, with access to employer's networks through their employer) may also charge the potential migrant a certain number of months' salary, and advance them their travel and other expenses. Direct hire may also mask unlicensed agents, a means of circumventing some sending country legislation on recruitment agencies. The same issues of debt-financed migration and deception can apply in these less formal instances.

The level of control exercised by agencies and individuals over trafficked labour then can increase profits, by guaranteeing "reliable" controllable labour to employers who pay for access to such controllable labour. Trafficked workers, isolated in the private household, will have very restricted access to networks and support other than that provided by the agent in the country of destination. This crucially includes employment networks, meaning that a) the close worker/employer/agent relationship facilitates mechanisms for migrant to "repay" costs incurred in movement and b) the deployment of the worker's labour may be a continuing source of profit to that agent.

### ***The State and Trafficked Domestic Labour***

The rights of trafficked domestic workers are violated by a) the recruiter/agency; and b) the employer (in some instances these may be the same individual). States, both sending and receiving, do little to curb their powers indeed their (in)actions increase this dependency. There are often few feasible alternatives to illegal recruiters prepared to extend their services to rural areas, and unless it is easy and cheap to arrange documentation, migrants will not be able to use licensed methods, even when they are available. Too often, legal recruiters are not sufficiently monitored. The rights of migrants, documented and undocumented, are routinely violated. In some states, such as Lebanon, migrants are explicitly exempted from labour laws, and this more generally a problem for domestic workers in private households, as noted above. The common legal requirement



that a migrant (domestic worker) has the name of their employer in their visa and is not free to change employer without forfeiting their immigration status, makes them further vulnerable to exploitation. Being of uncertain or illegal immigration status forces migrant domestic into dependence on third parties, and fear of deportation enforces a coincidence of interest between migrant domestic workers and third parties, even when she knows that they are exploiting or abusing her.

The lack of regulation governing paid domestic labour in private households, and where it does exist the non-existence of monitoring and implementation mechanisms also means that labour can continue to be forced in private households with employer impunity. Because enforcement mechanisms are designed for workers in the public sphere the primary means to vindicate rights is through work-initiated lawsuits, but there are numerous formal and informal obstacles for domestic workers to enter such processes (Blackett 1999).<sup>43</sup> Paid domestic labour in private households is typically not regarded as “proper work” either by employers or by the state. Even those states that have made some efforts to regulate the sector have significant loopholes (such as the au pair system) and issues of implementation, and a parallel informal sector continues, not just to be tolerated, but to flourish. That domestic work in private households is not straightforwardly constructed, either by states or by individual employers, as wholly governed by the market has important implications for our understanding of apparent demand for migrants and children. To what extent is the household viewed as governed by natural rather than market relations? Is domestic work viewed as “natural” to certain groups (marked by gender, age, ethnicity)? How does the employer imagine their relations with the domestic worker? Employers’ attitudes to trafficked and otherwise unfree domestic workers must be situated within responses to such questions.

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43 Adelle Blackett’s observations on this are worth quoting: “The relationship of dependence that results from living in the employer’s house cries out for regulation. Many other employment issues, such as working hours, leave periods, even termination notice, cannot seriously be discussed unless the defining impact of living in the employer’s house is considered. More basically, the right to privacy, autonomy and personal security is directly related to the degree of control which the domestic worker has over living space. In the employer’s house, the domestic worker typically has little control; consequently, her privacy and autonomy are severely limited and threats to her personal security are compounded.” (ILO IV National Regulation, C. Accommodation page 1)

## 5. Conclusions

One of the (many) problems we have faced in reviewing evidence on the “demand-side of trafficking” is that this term can encompass two rather different phenomena: employer demand for cheap and exploitable labour; and consumer demand for goods or services produced/provided by “trafficked persons”. Whichever of these phenomena we are talking about, it would be over-simplistic to describe trafficking as “demand led”. This is not simply because questions about supply and demand are interrelated, but also because both are shaped (often determined) by a complex and interlocking set of political, social, institutional and economic factors. Trafficked and otherwise unfree persons’ services/labour are invariably exploited/consumed in settings where a) the state affords little or no protection to unskilled migrant workers and/or other categories of exploitable persons (such as wives, *au pairs*, adopted children, beggars); and b) workers and other exploited groups have little or no opportunity to organise collectively to protect themselves from abuse and exploitation. These settings do not simply exist, but are to a large extent created through a combination of action and inaction on the part of state actors and other powerful interest groups. Once such unprotected pockets of economic and social life have been created, it becomes possible for individuals to exploit the services/labour of trafficked and otherwise unfree persons within them. To labour a rather obvious point, trafficked persons are not found in sectors where workers are well unionised and where labour standards regarding working hours, health and safety, wages and employment contracts are well established, and routinely monitored and enforced.

More than this, we need to recognise that trafficked/unfree persons are very often exploited in contexts that are socially imagined to involve non-market relations, or that are viewed as occupying some twilight zone between market and non-market relations. Thus, domestic work is not fully understood as “work” when it takes place in private households; those who exploit child labourers often do not recognise children as “employees” or themselves as “employers”, but cloak what is an exploitative labour relation behind fictive kinship or some other form of paternalism. This can also apply in relation to bonded labour involving adults. Meanwhile, “prostitute” is often taken to refer to a category of person (a sub-person) rather than a category of “worker”, and as such, cannot be imagined as a rights-holder.

This returns us to the immensity of the political problems that surround questions about “trafficking”, for there is no international consensus as to how, if at all, the various areas of social and economic life within which trafficking and related abuses occur should be regulated by the state, or whether market relations should apply in these areas. This makes analysis of demand hugely problematic. If trafficked/unfree labour were only exploited within sectors such as agriculture and garment manufacturing, matters would be fairly straightforward. Since consumer demand for commodities such as fruit, coffee and clothing is not usually deemed to represent a social problem, it would be clear that when international policy-makers called for research on “the demand side of trafficking”,

they meant employer demand alone and the problem would be framed as a labour standards and employment rights issue. But as soon as we turn to the phenomena of prostitution and the consumption of domestic services/labour provided by workers or quasi or real kin within the home, any such broad consensus evaporates. Some people believe that the state should bring the sex industry above ground and play honest broker between consumers, employers and workers; others believe a market in sexual services is fundamentally wrong and should be eradicated. Some people believe that the state should intervene to monitor, regulate and control relations between individuals in households; others believe that the “private” sphere of the home is sacrosanct and should remain beyond state regulation. Many simply do not trust the state with the kind of powers that might be necessary to effectively regulate what is currently constituted as the “private” realm.

Without an international consensus on the proper response to the consumption of commercial sex, or the consumption of domestic services and labour within private households, it is extremely hard to see how research on consumer demand in these sectors is to provide a straightforward or politically neutral basis for policy recommendations on trafficking. One conclusion that can be drawn from the review of research and debate provided above is simply that policy makers need to be much clearer about their own objectives and priorities with regard to trafficking. In the current global economic and political climate, prioritising the control of illegal immigration or the suppression of prostitution is not necessarily consistent with the goal of protecting migrants from abuse and exploitation by traffickers and other third parties, and may indeed cause or encourage human rights violations. Another conclusion is that if the primary policy objective is to prevent migrants (and others) from ending up in exploitative situations from which they cannot freely retract, then policy makers will need to enter into dialogue with, and listen seriously to, the concerns of a rather wide range of interest groups than are currently included in debates on trafficking. At present, debate is dominated by actors concerned with border control, or with recovery, repatriation and reintegration of trafficked persons. There is far less input from those who are concerned with questions about the regulation of sectors in which trafficked persons (among others) are exploited or about the creation of realistic and sustainable livelihood alternatives for those who are currently subject to strong migratory pressures and so vulnerable to trafficking and other abuses. Ironically, the emphasis on reintegration of victims of trafficking often creates “livelihood opportunities” for those who least need them (e.g., Western aid workers who provide psychosocial counselling), without addressing the fact that people are in many cases repatriated to endure precisely the poverty and unemployment that drove them to migrate in the first place (Pupavac 2001, McAleer 2002).

The above review of research and debate suggests there is a particular need to involve trades unions, sex workers’ rights activists and NGOs involved in outreach work with sex workers, migrant workers’ organisations, NGOs working on child labour, child migration, and on forced marriage. There is also a need for “joined up” thinking by national and international policy makers, involving dia-

logue between ministries of labour, foreign affairs, justice and home affairs, employment, welfare/social services in order to devise and implement regulatory measures to protect vulnerable workers and other categories of exploitable persons, and to encourage and facilitate collective organisation amongst workers and other exploited groups.

It is clear from this brief overview that there is already a significant body of research on trafficking and unfree labour (though data on Africa is rather more sparse). At this stage further analytical and theoretical work on this existing material is vital. This would identify the underlying social, economic and political factors that both contextualise and inform current research findings at local, regional and international levels, thereby facilitating a common framework or frameworks within which existing material might begin to be synthesised. Further work on the functioning and the contexts of labour and consumer markets is a good place to start and it is within this that we have attempted to situate our analysis of the findings from the pilot study on the demand side of trafficking in Part II.

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