

## **The Rumour of Trafficking – Migration Policy in the face of Moral Panic and Migrant Agency**

I want to begin my talk this evening with a quote from the US Secretary of State C. Rice in the latest US State Department Trafficking in Persons Report (2007):

"Trafficking in persons is a modern-day form of slavery... Perpetrators prey on the most weak among us, primarily women and children, for profit and gain...As in the 19th century, committed abolitionists around the world have come together in a global movement to confront this repulsive crime. President George W. Bush has committed the United States Government to lead in combating this serious 21st century challenge...."

Let me say at the outset that I too find trafficking in persons a repulsive crime. In my country Malaysia, where there are an estimated 2 million foreign workers, the majority of whom are single males, the illicit sex industry thrives, both on domestic, and on this foreign demand. It is estimated that of the largely foreign sex workers, circa 20 % have been duped - and subsequently raped and forced into a life of sexual slavery. This would be no small number of shattered lives, although officially, only 371 foreign women were rescued between 2004 – 2006.

Human trafficking exists. It is a repulsive crime. But is it a “serious 21<sup>st</sup> century challenge”? And why has it been made out to be so?

In the year 2000, the Victims of Trafficking and Violence Prevention Act of 2000 was signed into law in the United States. This extremely powerful Act (the only precedent is the Human Rights legislation passed under the Carter Administration) calls for the production of annual reports by the State Department on all UN countries. States deemed non-compliant may lose access to non-humanitarian, non trade-related US assistance. In addition, such countries will also face US opposition to their seeking and obtaining funds from multilateral financial institutions including the World Bank and the IMF.

In the same year, the UN General Assembly adopted the UN Convention Against Transnational Organized Crime, supplemented by additional treaties (protocols), dealing with the Smuggling of Migrants, and Trafficking in Persons - Especially Women and Children, which set up the distinction between the two – the smuggling of migrants (with consent) and the trafficking in persons (without).

These two pieces of landmark legislation – by the US Congress and the UN general Assembly – put the challenge of human trafficking onto the agenda of global high politics, and engendered the emergence of a plethora of organisations and institutions – a “global movement”, in the words of C. Rice, indeed comparable to that which came into being at the turn of the 20<sup>th</sup> century, a hundred years ago.

Then, as now, international public opinion was galvanised, as Rice notes, by abolitionists, to act against "the procurement, by force, deceit, or drugs, of a white woman or girl against her will, for prostitution." The campaign raged between 1910 and 1913,

and vanished by 1917. It resulted in the passage of new national laws (the Criminal Law Amendment Bill of 1921 in Great Britain and the Mann Act of 1910 in the United States) as well as a series of international agreements.

It was known as the “White Slavery Scare”. Contemporary historical research has since debunked the material basis to that campaign. The historical evidence is that "the actual number of cases of white slavery, as defined above, are very few." The 'scare' arose at the time of the 'new' transatlantic migrations, which drew into its vortex migrants from 'non-traditional' Eastern and Southern European countries of origin, as well as larger numbers of women migrants. It faded away as this wave of migration came to an end with the outbreak of the First World War. In this conjunction with the larger issue of migration – and the involvement of new types of migrants – this massive, and highly effective, discourse on “White Slavery” has been interpreted as an instance of moral panic.

I want to make three points in my talk today:

1. I want to trace the career of the contemporary trafficking discourse and locate it in the context of highly politicised immigration debates in Europe and the United States at the turn of the 21<sup>st</sup> century. The sub-text of the discourse is immigration control.
2. I want to argue that the conflation of smuggling and trafficking characteristic of this discourse does two things: one, overlook the meaning and significance of migrant agency, two, criminalise the act of migration.

3. I want to suggest that the inordinate attention given to the problem of trafficking by this discourse, and the mis-reading of migration realities it entails, deflects and distorts the priority agenda of migration policy, in countries such as the Netherlands, as well as in countries such as Malaysia.

#### 1. The Great Trafficking Consensus

The trafficking discourse first emerged in Europe, and in particular, in the Netherlands, in the early 1980s, centering on Southeast Asian women migrants and sex workers (in particular from Thailand and the Philippines). It was generated by Asian feminist activists in both Europe and Asia, whose voices remained faint and marginal in the general public discourse on immigration, in itself a muted one. At the end of the 1980s, however, a new stream of women migrants, including sex workers, arrived from closer to home: the disintegrating Soviet Union. Women from eastern European countries were soon found in the American and European sex industries. A new anti-trafficking discourse emerged, spurred by vigorous American involvement and a conservative abolitionist agenda.

The trajectory – and power – of the anti-trafficking discourse took another turn in the late 1990s, when it was hijacked from its initial context of imported third world prostitution, and reframed in the larger one of illegal immigration and European asylum policy. The turning point can be traced to the 11<sup>th</sup> IOM Seminar in 1994 devoted to the theme of ‘Global Human Trafficking’. In an influential paper, a

leading European scholar on international migration introduced a model of the new trinity – trafficking, illegal immigration and organised crime – threatening Europe's borders. The Fall of the Berlin Wall in 1989 had led to the opening of a new migration frontier on Europe's eastern flank. Asylum applications in the European Union had jumped ten-fold between 1983 and 1992. This was the context in which the trafficking discourse was introduced to European political consciousness at the 11<sup>th</sup> IOM seminar. The rest, as they say, is history.

## 2. Migrant agency vs victimisation and criminalisation

Much of the moral power of the trafficking discourse derives from the “repulsive crime” that it invokes. Unfortunately, the arresting media images of human trafficking cannot be that of the traffickers themselves, but of spectacular scenes of rickety boats filled to the brim with swarming men, women and children hovering off the shores of Europe, the United States and Australia, or of multitudes of huddled masses left stranded at lonely border outposts. In the public imagination, migration becomes associated with crime.

Much of the moral power of the trafficking discourse also derives from the figure of the hapless and helpless victim. This is indeed more than called for in the case of trafficking victims. The trafficking discourse generally however, in its condemnation of “human smuggling and trafficking rings”, fails to distinguish between illegal migrants who avail themselves of smugglers out of sheer necessity, and those who are

coerced into crossing borders under false pretences. The vast majority of global migrants today who are moving, and living in the shadow of illegality, have used – often at exorbitant prices – the services of professional smugglers simply because they were needed. They are not victims, they are taking life chances.

### 3. Migration policy is not just border control policy

At the heart of the trafficking rhetoric is the image of the border transgressed. It centres policy attention on immigration control, and research attention on illegal migration. While this is indeed of legitimate – and indeed, profoundly legitimate – concern, migration policy cannot be impoverished by being reduced to this one overwhelming issue. Global migration will indeed be a serious 21<sup>st</sup> century challenge. It will require migration policy at the national and international level to look beyond the question of border control to that of finding new forms of living together, in new understandings of state, nationhood and society. In more immediate, pragmatic terms, for a country like Malaysia, a migration policy which would *inter alia* attend to the glaring flaws of the current legal labour migration regime is of the utmost urgency.

I would like to end with a final comment on the trafficking situation in Malaysia. One of the main problems, and injustices, inflicted on trafficking victims in Malaysia, is their detention as illegal immigrants awaiting deportation in prisons and detention camps when caught during police raids on sex industry establishments. According to the Prison department's report on 28/10/2003, there were 1485 foreign women

prisoners – mostly sex workers. This does not include foreign women in detention camps awaiting deportation. The Malaysian Parliament has passed an Anti-Trafficking in Persons Bill in May 2007. Under this Bill, victims of trafficking will not be prosecuted for illegal entry. The Bill was passed due to pressure from the global anti-trafficking lobby and legislation. A clear indication that this work has not been in vain.