



At the crossroads – Investigating the interaction between prostitution and anti-trafficking policies and practice. A country comparison.

Summary of the VIDC panel discussion and workshop
by Heidi Pichler

The VIDC panel discussion was part of the conference “Joining Forces against Human Trafficking”, co-organized by the Task Force on Combating Human Trafficking on the occasion of the EU-Anti-Trafficking Day (18th October) on October 10th, 2014.

On behalf of the co-organiser VIDC, **Nadja Schuster** welcomed all conference participants. She stated in her opening address that the purpose of this conference was to give room for evidence based research and evaluation and let policy makers learn from empirical research. She emphasised that any attempt to make sex work invisible by criminalizing sex workers or clients, and by transferring them to unsecure non-residential areas, furthers their vulnerability to exploitation, as well as the flourishing of a black market and sex trafficking. What we should learn from this is that prostitution policies should protect the rights of sex workers. To avoid negative effects of policy measures, evidence-based policy – in a multi stakeholder process with active involvement of sex workers’ organizations – should be designed. This is missing until today because of the prevailing stigmatization and discrimination of sex workers in their everyday life as well as in their relationship with authorities. Furthermore Nadja Schuster highlighted the need for alliance building between sex workers’ and anti-trafficking organizations fighting for more social and work rights of sex workers and of victims of trafficking. This coalition is not contradictory, as long as both are committed to the principles of human rights and self-empowerment.

The moderator **Birgit Sauer (University of Vienna)** introduced the speakers: **Julia O’Connell Davidson (University of Nottingham)**, **Alina Brasoveanu (GRETA - Group of Experts on Action against Trafficking in Human Beings, Council of Europe)**, **Sietske Altink (Sex worker organisation Sekswerkergoed, Amsterdam)** and **Helga Amesberger (Institute for Conflict Research, Vienna)**. Professor Sauer started with emphasizing that prostitution and migration policy may interact but should not be discussed in a conflating mode. The panellists are called to present international expertise from a comparative perspective, identifying challenges and pitfalls for Austrian policy makers, reflecting how evidence should guide policy making and policy implementation. Against the highly moralized debates, the intended and unintended effects of prostitution policy on the one hand and anti-trafficking policy on the other were analysed from a country cooperative perspective. Results, practices and experiences in other countries are presented from an international perspective and give information on how they influence each other.

Julia O’Connell Davidson stressed the necessity of sorting out clear aims for different policy fields. She highlighted that prostitution policy should not be used as a means for managing migration, and prostitution should not be conflated with the issue of trafficking in women. Prof. O’Connell Davidson marked the overlapping discourse as dangerous, as it is already being used by states to legitimate policies actually leaving people with less rights and making them more vulnerable to abuse and exploitation. She called for terminological refinement on the interlacing of the terms “trafficking” and “modern slavery”, exploring definitional problems associated with the term “trafficking”, criticizing the dominant discourse on “trafficking as modern slavery” and challenging the framing of “trafficking” as a problem of transnational crime – as opposed to a migrants’ rights issue.

Further she called on the importance of actively giving voice to trafficked women, and not merely using their voices as victims. Many trafficked persons arriving in Europe are highly in debt. But the presence of debt should also alert us to the fact that we are not talking about the contemporary equivalent of the transatlantic slave trade. In fact, conveniently for anti-immigration politicians, the discourse about trafficking as modern slavery deflects attention from the fact that the state is a source of harm to migrants. It entirely fails to address the situation of those women and men – probably the majority of workers – who regard prostitution as a form of work, and whose vulnerability, where it exists, arises precisely because their work is not legally recognized as work, and in the case of undocumented migrants, because of their irregular immigration status. Risks and vulnerabilities are products of laws and policies on immigration, welfare and prostitution.

The discourse of trafficking as modern slavery allows us to forget the risks people take, whether that is making extraordinarily dangerous sea crossings (instead of catching a safe flight), or working alone selling sex in a private flat (rather than working more safely with a group of sex workers). These risks are not inherent or inevitable – neither in migration nor in sex work. It is time to stop talking about trafficking as slavery, and start talking about structural causes of exploitation and inequality, as well as about the consequences and morality of the restraints, being placed by states on some peoples’ freedom of movement and choice.

The next speaker, **Alina Braşoveanu**, stated that GRETA, as a monitoring body, does not express an opinion regarding the current policy of Sweden on prostitution, which is criminalising the purchase of sexual services. GRETA rather considers, on the one hand, the arguments of the authorities that this policy leads to a lower number of incidences of trafficking crimes for sexual exploitation and contributes to the effectiveness of investigations. On the other hand, GRETA has access to other sources arguing that the current policy of Sweden drives prostitution to the underground, thus making it more difficult to identify trafficked persons. This contributes to further stigmatization of sex workers, making them unlikely to co-operate with police or represent reliable witnesses for the justice system.

In analysing the anti-trafficking responses of the Swedish Government, GRETA noted that in practice there is sometimes conflation between the fight against trafficking in human beings and combating prostitution. Furthermore, countries should be aware that a prohibitive approach to prostitution may sideline the work on combating trafficking or other forms of exploitation, such as forced labour or domestic servitude.

Referring to the current situation in Sweden, it is not clear whether sex workers left the sector or went underground. At the same time it is clear that prostitution still exists. Moreover, if clients know that they will be arrested and prosecuted, they will not report cases of trafficked women. During GRETA’s monitoring, the police mentioned clients as being one of the most valuable sources of information leading to identifications of victims. Furthermore, outreach by milieu police officers or NGOs may only be conducted in places with voluntary prostitution. Thus in Sweden the state cannot follow its obligation to identify victims forced and coerced to sell sex services, as well as those being trafficked, and to provide them assistance.

In the following presentation, **Sietske Altink** started with explaining what has changed since the new law on prostitution was adopted in 2000 in the Netherlands. Before 2000, it was officially forbidden to facilitate sex work in a brothel. Policy makers expected that the brothel owners would become common entrepre-

neers and that trade unions would take care of workers' rights. This law brought small improvements for sex workers, namely their ability to work part time because brothel owners could not discourage refrain the workers any more from working in more than one facility. Another improvement was that brothel owners were no longer able to force the women to do unpaid cleaning etc. However, the decrease from 800 to 300 indoor facilities since 2000 had a lot of unintended consequences, e.g. an increase of sex workers working from their home or in illegal temporary brothels. One could observe a shift from migrant sex workers to young Dutch girls (see also lover boy prevention programs in the Netherlands). Unintended effects connected to the registration of sex workers turned out to backfire: e.g. involved health care workers and police authorities identifying sex workers lost their recognition and were more and more seen as enemies – usually gained information is based on vague signals and information on private lives. Many of the sex workers prefer anonymity and discontinue cooperation with these authorities. Registration was thought to resolve the problem of trafficking, but it turned out to have no effect on trafficking. As long as authorities do not regard sex workers opinions on how to resolve the problems of trafficking, policy measures may not meet the goals. In the Netherlands, there is currently no evidence based policy and policy makers seem to be very fact resistant.

Helga Amesberger, as the last speaker, deliberated what Austria may learn from the progressive prostitution policy in New Zealand focusing on decriminalization and participation, as well as from the abolitionist approach in Sweden. She reveals two basic insights from her comparative research on prostitution regimes. First, prostitution policies do more or less have no effect on the size of the prostitution market. Second, prostitution policies do have considerable effect on the working conditions and the rights of sex workers. The conclusion is that prostitution policies are by and large ineffective in controlling and influencing the number of sex workers and partly even the number of sex establishments. Strict legislation leads to a reduction of legal work places and thus threatens sex workers' rights and has negative effects on the way society thinks about sex workers and prostitution (de-stigmatisation).

What prostitution laws do determine is the size of the legalised and illegalised sectors of sex work. With respect to the number of sex facilities, one can observe a decline in all countries, apart from Sweden, where there is no reliable data. In Vienna and the larger Dutch cities, the number of sex establishments declined significantly. In current Viennese prostitution law, street prostitution is restricted to certain non-residential areas. This has severe negative consequences for the sex workers with respect to security, autonomy and income. These non-residential areas are hard to reach by public transport and there is no infrastructure to deliver the services, no toilets, no cafés. Crowded prostitution zones were another outcome, resulting in fights among sex workers, the payment of protection money, the drop of prices for sexual services and the presence of so-called protectors. In Sweden prostitution takes place in hidden areas, as establishments are not being rent to sex workers. This makes sex workers prone to blackmailing by clients, neighbours, and corrupt police – and consequently increases their vulnerability.

In New Zealand sex workers can choose among a variety of work places: managed brothels, home or street based sex work, escort; they can also work together with a colleague. According to a survey of 700 sex workers, the Prostitution Reform Act 2003 has led to greater autonomy which is reflected in the increase of home based and escort sex work. It is easier to refuse a client since the enactment of the new law. Moreover, sex workers can quit more easily when the working conditions do not meet their expectations. Although the new law has led to considerable improvements of sex workers' rights and working conditions, the evaluation report concludes that there is still a lot to do for a fully equal occupational status.

Public discussion after the panel discussion

Birgit Sauer highlighted some key arguments of the panel discussion pointing out that the role of the state should be to protect the rights of all actors in this market – and again, it should protect the most vulnerable group which are the sex workers. Here, some of the panellists took a clear position in a highly contested field. To be explicit, while the controversial ideological and moral debates on prostitution range from an abolitionist approach suggesting to prohibit prostitution, for instance by fining clients, to a “sex work”-

approach contextualizing sex work as a sector in a capitalist market of sexual services, that requires regulation.

Referring to the question about the reasons for migrations of victims and if the definition of the law is still up to date, **Julia O'Connell Davidson** stresses, that the majority of victims were not trafficked, but they were heavily in debt. That has to be addressed in law. The problem of trafficking is that there exists no exact definition of exploitation or force, which increases the countries' flexibility of interpretation. **Alina Braşoveanu** agreed that the indications to find out who is trafficked and who is not, are not clearly defined in the EU protocol and that the definition is very broad. In practice there is a discrepancy when it comes to referral because of issues of restrictive migration politics.

Another question from the participants was: How could the voices of victims get heard? **Julia O'Connell Davidson** replicates that she has a discomfort about the terms "victim" and "victimhood" as victim is a really dangerous and difficult terminology. Because on the one hand, it effects on points how we devote right, to get them rights, and on the other hand we need to combine a victim centred approach with listening to people as agents. And what we really should think about is how to combine more attention paid to the recognition of harms done. She goes on stating that the most important thing to empower people is to think about the background conditions, bringing people to a point where this is their choice. Where a seventeen year old migrant in this country will not be entitled to access health services or if she does, she will likely be deported. Once she is 18, she runs the risk to live underground, and the way to do that is often ending up selling sex. It is necessary to focus on that moment of abuse. What is it that makes one vulnerable at that point? It is necessary to think that through apart from discourses of victims and perpetrators. It has nothing to do with laws of prostitution, it has much more to do with laws of welfare, and is has to do with laws on migration; some people are not protected by laws as citizens.

Concerning the demand side, **Helga Amesberger** commented again on the Swedish model: Sweden forbids sex purchase, but not selling sex. The main objective is the re-education of men because prostitution in Sweden is seen as violence against women. Therefore men should be re-educated, should not buy sex anymore. Evaluations demonstrate that no change has taken place so far. The punishing of sex purchase did not change anything. One result of her survey is that the prohibition mainly has effects on lower class men buying sex because these cannot afford more secure higher class services and have to go to the street, were the risk to get caught is higher.

With regard to sex workers' registration **Sietske Altink** made clear, that sex workers' organisations are fighting registration because it makes sex workers vulnerable and it will not stop human trafficking.

Another question from the audience was: Is gentrification an excuse for the reduction of brothels in the city centre? **Sietske Altink** pointed out that one reason for closing down window prostitution goes back to the nineteen eighties in Rotterdam. Now they are using the argument of trafficking. But some people argue that it is not because of trafficking, but more because these areas are high price locations. What is the alternative for the women? They want to work, they try to find a window in another city, but it is very expensive. They try to work with their own funds, they unite and start collectives and try to rent a place. But that is a very complicate procedure and most probably they would not get a licence.

Workshop 3 (VIDC)

The interaction between prostitution and anti-trafficking policies and practice in a country comparison.

Moderation: Birgit Sauer, Institute of Political Science, University of Vienna

One outcome of the workshop discussions was creating awareness on the importance not to conflate prostitution with trafficking. If we look at human trafficking as a sort of structural violence, provoked e.g. by closed borders, by difficulties in migration, by an unequal division of gender and labour, and also by dis-

crimination of women in the international division of labour, then the discourse on sex work should not be conflated with trafficking and has to be discussed separately. To improve the situation it is suggested to not first and foremost look on sex work and prostitution but to look at migration policies and at how organizational measures could be better organized.

The participants of the workshop agreed that punitive measures against prostitution are not helpful to reduce human trafficking in women and that abolitionist measures towards prostitutions might even worsen the situation of trafficked persons. If prostitution is punished, clients do no longer report trafficked women to the police. Furthermore, if the purchase of sexual services is prohibited and their clients are fined, prostitutes will not trust the police.

Recommendations from the workshop can be summarized as followed: it is important to strengthen the situation of sex workers, which would consequently also improve the situation of trafficked persons. Giving rights to sex workers, empowering sex workers and involving their organisations in policy design and implementation will sustain improvement. As long as representatives feel discriminated, they will not take part in policy processes. One strong recommendation asks for coalition building between sex workers' rights organisations, and anti-trafficking alliances. Not including all involved groups increases the risk of goal displacement and may cause a regulatory drift (e.g. abandonment of fundamental human rights for the sake of preventing human trafficking).