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Studying the anti-trafficking discourse: Complicating the "problem" of sex work

THESIS

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DEDICATION

To

Papa

who introduced me young to the strength, beauty and fragility of the *tawaifs*

(courtesans) through our long conversations on films and literature

ਇਹ ਵੇਸਵਾਵਾਂ ਤ੍ਰੀਮਤਾਂ ਕੁੜੀਆਂ
ਮੇਰੀਆਂ ਮਾਵਾਂ, ਭੈਣਾਂ ਤੇ ਧੀਆਂ ਹਨ
ਤੇ ਤੁਹਾਡੀਆਂ ਵੀ।
ਜੇ ਨਹੀਂ
ਤਾਂ ਇਹ ਆਉਣ ਵਾਲੇ ਇਨਕਲਾਬ ਦੀਆਂ
ਮਾਵਾਂ ਭੈਣਾਂ ਤੇ ਧੀਆਂ ਹਨ।

These prostitutes wives girls
are my mothers, sisters and daughters
and yours too.
If not
then they are mothers, sisters and daughters
of the forthcoming revolution.
(Lal Singh Dil
Prostitutes Wives Girls in *Naag Lok, p. 98*)

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ABSTRACT

Studying the anti-trafficking discourse: Complicating the "problem" of sex work

by

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Professor Elliott P. Currie, Chair

The objective of this paper is to provide a synthesis and critical evaluation of how the discourse on trafficking is mobilized in feminist debates on prostitution and sex work. I am using the method of discourse analysis introduced by Foucault and Nazzaro (1972) to challenge the truths constructed by the feminist theory around the problem of trafficking. This motive has been inspired by my interest in the critical study of language written within texts to determine the relation between anti-trafficking discourse and power in context to sex work. Beginning by introducing the conceptual and historical stances taken by the criminological theories which treat sex work as a form of deviance and then situating these theories with the development of feminist perspectives, neo abolitionists and non-abolitionists, the discussion of limitations in these theoretical frameworks is conducted along with a brief case study of British colonial impact in relation to sex work and prostitution in India. Further, the directions towards the future research in the field of trafficking and sex work have been discussed.

INTRODUCTION

Through the study of feminist perspectives, I expect to begin understanding what kind of structure of violence and patriarchal subordination against women underwrites or drives this issue. I am exploring the feminist perspective to understand if it would allow me to talk about the notions of public nuisance and indecency which have been infused in the problematic of trafficking and prostitution. Also, I believe it would facilitate my analysis to address the question of problematic of traffic and prostitution in relation to gender. For the purpose of this paper, I understand an act of public nuisance as a condition that is considered socially deviant, and sometimes illegal because it takes away public's right to live in a 'decent' world. However, instead of arriving at concrete definitions for processes of public nuisance and indecency, I am using these concepts to extrapolate how such approaches towards prostitution have led to invisibility and demonization of the women involved in sex-work. Framing prostitution as an indecent act has led to its social exclusion, and thus increase negative visibility. Also, in the extreme face of social exclusion, prostitution have been perceived as a dangerously deviant act, which has reduced the identity of the prostitutes to untouchable or forbidden individuals. So, I will be examining the question of the availability of theoretical frameworks to examine the anti-trafficking discourse.

The three frameworks that would be discussed in this paper are; a.) deviance theory framework, b.) neo-abolitionist perspectives, and c.) non-abolitionist approach. Deviance theory approach is crucial for this paper as it has been

operationalizing in pieces and bits under much later developed feminist perspectives supporting the abolitionist approach. Under abolitionist perspectives and non-abolitionist approach, the radical feminist framework and liberal feminist perspectives would be discussed, respectively. The questions that would be explored in relation to each of these theoretical frameworks are; a.) how have these theoretical frameworks addressed the issues of trafficking and prostitution, and b.) where do these approaches fall inadequate to address the issues involved in trafficking and prostitution? I do this to explore the major theoretical viewpoints situated within this broader feminist framework and how their underlying assumptions support and differ from each other. I am also fascinated to learn about how or if this theoretical literature addresses the question of what is considered fundamentally indecent about sex-work. Through this literature review of theoretical conceptions about the phenomenon of sex trafficking, I am interested in arriving at a set of research questions after identifying the conflicts, assumptions, and gaps in the current research on this phenomenon.

An overview: The problem of trafficking

The definitions of trafficking and prostitution have been constructed by opposing feminist perspectives and deviance framework. For this paper, I will be using the definition of trafficking in persons as adopted by the United Nations' Protocol to Prevent, Suppress and Punish Trafficking in Persons, which defines it as "the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of

deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation" (2012). United Nations Office on Drugs and Crime (UNODC) considers the phenomenon of trafficking to be essentially transnational in nature. Trafficking involves multiple forms of exploitation including but not limited to sexual exploitation, forced labor, and prostitution. Discussion of all forms of exploitation involved in trafficking is beyond the scope of this paper. For the purpose of this paper, I examine the issue of trafficking as it involves sexual exploitation and prostitution of others.

I am using the UN definition of trafficking in persons to facilitate understanding of the terminologies used in the transnational anti-trafficking discourse. Kotiswaran (2014) argues that even though there is no one fixed definition of trafficking in persons, but the terms such as coercion, consent, and rescue have remained at the center of anti-trafficking discourse and feminist debates have led to multiple revisions of the UN conceptualization of trafficking. Further, Doezma (2005) states that the UN Trafficking Protocol was the target of heavy feminist lobbying during which the term 'consent' came up repeatedly. Supported by these theoretical underpinnings of the issue at hand, the law enforcement, legal/judiciary as well as law-making entities have also placed a huge emphasis on embedding these key terms within anti-trafficking legal sanctions and criminal justice policies (Doezma, 2005).

In the past several decades, the United States and international efforts have increasingly tended to adopt reforms to criminalize prostitution. Beginning with the

Convention for the Suppression of Traffic in Persons and of the Exploitation of the Prostitution of Others of 1949 to CEDAW (1992), the UN has adopted an abolitionist approach and does not make a distinction between forced and voluntary prostitution (Doezma, 1998, p. 39). An abolitionist approach argues for an absolute criminalization of sex work as it essentializes the elements of violence and oppression to the phenomenon of prostitution. United Nations approach is highly fragmented in response to prostitution and trafficking as a shift towards new perspectives of prostitution is taking place. Although international community implicitly recognizes the distinction between free and forced prostitution, "no international agreement condemns the abuse of human rights of sex workers who were not "forced"" (Doezma, 1998. p. 41). Here, the problem lies in the lack of practical application of how consent and agency matter in sex-work, similar to any other workplace. From the above discussion, it is important to note that tendentious efforts to either draw a dangerously unambiguous distinction between voluntary and forced prostitution, or to summarily refuse to recognize any lines of difference whatsoever between the two, are both highly problematic stances, and stand to critically sabotage the soundness of any response that policy-makers construct to deal with the site of sex-work as a destination of trafficking.

In this context, political debates have largely focused on whether this control philosophy is victim-oriented or offender-oriented. Some feminists (Butler, 2015; Kara, 2010; Legg, 2014; Weitzer, 2011) have argued that the criminalization of prostitution is leading to the revictimization of trafficking victims. This is due to the

absence of legal structures to prevent systemic violence that the sex-workers are exposed to, both on the societal and personal level. Also, as Sullivan (2007) states, the victims of trafficking are further persecuted by being blamed for their own sexual exploitation. This makes it important to closely read the understanding of prostitution and trafficking as developed by deviance framework and feminist theories to recognize the emerging questions from within the anti-trafficking discourse.

Next, I will begin with introducing deviance theory perspectives briefly in relation to trafficking in persons and sex-work more broadly.

Deviance theory perspectives

The treatment of prostitution as a form of "deviance" that occurs as a consequence of "strain" in society, is an attempt to apply strain theory, as developed by Merton (1968), to explain the phenomenon of prostitution. It is asserted that every individual in the society faces a pressure to conform to certain "cultural goals", such as achievement of economic stability and affluence, and the inability of individuals or classes thereof to conform to such norms result in a strain. Thus, exclusion of certain classes of people from conventional means of achieving such cultural goals leads to deviance. Deviance is the innovation of alternative means to achieve the cultural norm of economic stability, which is assumed to be a universal value. Prostitution and other forms of sexual deviance are termed as examples of deviance produced by strain.

The complexities in the power structure are mostly ignored by the strain theory, and thus, effectively side-stepping the investigation of the social phenomenon of sex trafficking as a manifestation of structural inequalities based on race and gender. The deviance theory ignores the possible role of such interactionist elements in the power structure as one of the reasons in for the exclusion of a class of people from the means of achieving the cultural goal. Even though the trafficked individuals originally could have afforded to work for achieving the end goal through conventional means, but the systemic violence and complex politics of trafficking pulled them to make such choices. As strain theorists do, just acknowledging that some form of strain explains the phenomenon of trafficking does not, in itself, uncover the actual

complexities of the operational context of trafficking and sex work. While speaking of what constitutes deviance, Merton (1968) repeatedly uses the terms "legitimate means" to achieve "cultural goals". However, it is left unclear that what constitutes "legitimate means" and what process is followed to define the "legitimacy" or "appropriateness" of the said means.

Also, while talking about sex-work as result of trafficking, one cannot overlook its transnational nature, but deviance theory has been developed specifically around the idea of America's cultural goal, that is, the "American Dream" (Macionis, and Gerber, 2009). The individualistic, as well as the community level realization or sharing of cultural goals, variate hugely across different civilizations making the idea of "deviance" inadequate to address the transnational movements operationalizing the economies produced through sex trafficking. Conformity to achieve "cultural goals" might be overrated. Even in America, the realities constructed by the doctrines of law and the legacies of civil rights movement create doubts about the conformity as a driving force to reach a shared cultural goal. Hence, assumptions underlying the deviance theory seem more of an interpretation of an imaginative or fantasy mind.

For example, Vanwesenbeeck (2001) argues that this theory secures a place to study how the process of stigmatization in any form of sex work plays into the operationalization of the phenomenon, which other theories on sex work and prostitution do not allow explicitly. Vanwesenbeeck (2001) further states that stigma involved is not always related to the nature of work itself, but to the presumed negative circumstances such as the overwhelming association between sex work and

sexually transmitted diseases such as AIDS (Zajdow, 1991). Unlike neo-abolitionists, deviance theory does allow space for discussing how stigmatization might also play an important role in creating social strain.

However, the inability of deviance theory framework to understand the imaginative capacities of its interpretations to differentiate between different forms of sex work as a "legitimate/conventional" or "illegitimate/unconventional" means makes it inadequate to grapple with the complexities involved in prostitution and trafficking. Also, the theoretical framework of deviance theory does not recognize how the system of power control might be contributing in producing the resulted strain.

From the above discussion, we begin to understand how the idea of economic marginalization driving prostitution and sex trafficking might be accommodated adequately by the deviance theory framework. We will see in the next sections of this paper that how feminist perspectives also consider the economic deprivation as one of the driving factors behind prostitution and sex trafficking. However, the deviance perspective does not shed any light on how concepts of agency and power might complicate this problematic further. So, I found the deviance theory framework inadequate at addressing how racial discrimination and gender-based violence might be facilitating the strain as referred by the strain theory.

Feminist theory and trafficking

Trafficking in persons has been a fiercely debated issue often implied through grappling over issues such as prostitution and pornography in early twentieth century by the Western activist feminists. Prostitution has been recognized as an international problem and hence, there has been a focus on the international "traffic" of women and girls (Chuang, 2010). As discussed later, the issue of concern was white slavery i.e. enslavement of Europeans by non-Europeans (Haag, 1999), and feminists began campaigning against the practice of prostitution and other related types of activities. The literature enmeshed in the idea of white slavery, re-emergence of moral panics and the campaigns for protecting 'innocent' white women did not give enough attention to tackling the issue of trafficking in persons in third world countries.

At the same time, there arose a demand placed by sex-workers to recognize their work as work rather than slavery or exploitation (Doezma, 2005). The literature on western sex workers' rights movement (COYOTE in California (1973), Occupation of the church in Lyon (1975), PCV in Australia, the Red Thread in Netherlands) does not communicate much with the literature on sex workers' rights movements in third world countries. In South Asia, especially in India, the trafficked women have been strictly segregated based on the rigid caste system (Sinha, & Basu, 2002). Although the arguments that led to the White-Slave Traffic Act, (1910) were a highly encouraging discussion on trafficking, but by imagining the myth of 'white slavery', abolitionists ignored the fact that the construction of the 'problem of trafficking in persons' is inseparable from its discourse as narrated in Asia and other

'third world' countries (Kempadoo, 2012). As seen above, efforts at developing an objective understanding and a sensitive handling of the complex yet related challenges of trafficking in persons, especially women, forced prostitution and voluntary sex work have partly been plagued by inter-mixings of moralistic baggage, racially and geographically incognizant treatment and one-size-suits-all arguments.

Conflicting perspectives on consent (choice and coercion) between sex workers' rights advocates and anti-prostitution feminists led to the development of different theoretical frameworks while both standpoints were aiming for deconstructing the structures of oppression, and specifying the meaning of violence while walking towards gender equity. The two notable feminist theories that came out of these conflicting paradigms aimed at somewhat similar broader objectives are known as neo-abolitionist theory and non-abolitionist theory.

Neo-abolitionist perspectives

Neo-abolitionist feminists demand the absolute abolition of prostitution since it is understood as inherently male dominating, exploitative and degrading to women (Chuang, 2010; Miriam, 2005). Some western feminists have argued prostitution as an issue of sexual violence and hence advocated its abolition. Neo-abolitionist theorists have also argued that trafficking in persons is the transnational institution by which women enter the trade of sex-work. Haag (1999) puts that as per neo-abolitionist and radical feminist perspectives, prostitution is "the core" of women's expression as it denies them "the ownership" of their own bodies. Also, one of the

biggest assumptions that I found in neo-abolitionists' approach is that the neo-abolitionists strongly assume that the destination of trafficking in person is brothels or the streets of sex-work. In the political goal of abolishing red-light areas, the sex-workers are thought of as being liberated by restoring the ownership of their own body.

However, I argue that by restricting the freedom of sex workers to practice prostitution and failure to recognize their agency is an act of taking away the ownership of their own bodies. By criminalizing all forms of prostitution, the sex workers are no more allowed to decide that what they should do with their body, and instead, the law dictates it. The assumptions underlying neo-abolitionist theory demand to be questioned as it associates prostitution with trafficking in persons so simplistically, avoiding all complex phenomena involved in the 'problem of trafficking'.

Neo-abolitionists have openly supported anti-white slavery movement and abolishment of slave trade, which initially was not targeted on prostitution (Chuang, 2010). Bravo (2007) and Nadelmann (1990) emphasize that anti-white slavery was focussed on preventing state licensing of prostitution in the western world, especially Europe and the United States. Government licensure and regulation of trafficking was a systemic legitimization of oppression against women, but soon it became a "social purity crusade" advocating total abolition of prostitution. This rhetoric of translating anti-white slavery into anti-prostitution campaign heavily influenced the international laws of mid-twentieth century such as the 1949 Convention for the Suppression of

the Traffic in Persons and of the Exploitation of the Prostitution of Others.

One of the major critiques of turning this movement of anti-white slavery into anti-prostitution agenda is that it was constructed on the assumption that European women did not have the capacity to consent to pursue sex work (Chuang, 2010). This conflation of whiteness and lack of consent in the discourse on prostitution as a global problem continues to today. This discourse tenders "voluntary" prostitution an ontological impossibility, and creates risk for the non-prostitute women sex-workers to be perceived and treated as prostitute. Hence, the discourse imagines that sex work as a form of work produced by the transnational institution of trafficking exposes all women as potential prostitute.

In line with above understanding of prostitution, Sullivan (2007) suggests that the neo-abolitionist agenda is subjected to criticism because it not only frames the act of prostitution as dangerous but also the prostitutes as publicly available for sexual exploitation. Sullivan (2007) further suggests that the array of perceptions of prostitutes or sex workers can easily be witnessed in our courtrooms today where victims of trafficking face the fear of being convicted of prostitution. This coheres with the idea that sexually violating, or raping a prostitute is the victim's fault.

In line with the modern neo-abolitionist theorists, the Bush administration waged a war against prostitution within the United States as well as internationally through National Security Presidential Directives-22 to counter the decade-long attempts of non-abolitionists to delink trafficking from prostitution and legitimizing it

as a form of work (Congressional Hearing, 2003). Hughes (2003) supports the contemporary abolitionist view on prostitution and trafficking as she asserts that equating the two is crucial for combating effectively with the commercial sex trade and sex tourism. Her assertion is again based on the assumption underlying the claims made by neo-abolitionists i.e. the majority of the sex workers or prostitutes are brought into this trade through the process of trafficking.

Critiquing abolitionist perspective on patriarchy, Chew (2012) problematizes that even though the "institution of patriarchy" is integrated into more socially acceptable relationships such as marriage, but only women in prostitution are subjected to "extreme stigmatization and marginalization" (p. 67). So, to develop a nuanced understanding of the institution of sex work, it is crucial to include prostitution as one of the institutions within our contemporary patriarchal, socioeconomic system, next to, for example, marriage.

Radical feminist theory. Although most of the feminist literature puts radical feminists together with neo-abolitionists, the Liberals do not embrace the agenda of "abolition" like the neo-abolitionists do (Chuang, 2010). The liberal feminists such as Catharine Mackinnon, Kathleen Barry, and Sheila Jeffreys pronounce themselves as radical feminists while pointing out the complexities involved in absolute separation between "forced" and "voluntary" prostitution. These radical feminists argue that "false consciousness" explains how prostituted women are not fully aware of their oppression and actual meanings of consent (Chuang, 2010). MacKinnon (2003) argues that the coercion caused by the economic strain is often misconstrued as

consent for various forms of sexual exploitation. Radical feminists question the notion of "choice" in sex-work as they situate what appears as "free choice" in a social structure that influences and delimits the contexts in which women make such choices. However, O'Connell Davidson (1999) argues that rejecting the fictional contract in a prostitute-consumer relationship based on the idea of false consciousness takes away the control of an agency from the sex-workers. Johnson (2003) claims how the agency might exist separate from resistance, that is, even if one is not able to recognize an active resistance taking place, the agency can still very much exist. Understanding how sex workers operate their lives outside of their workplace would be helpful to explore the idea of the agency of sex workers without reducing their existence as humans to only sex workers or women with violated sexual histories.

In Allen's (2001) view, the radical feminists over-emphasize the concept of power as a tool of domination and subordination. She argues instead that feminist critique should conceptualize power as a tool to create social change, which is foreclosed by the radical feminist theory. While discussing pornography and power, Allen (2001) insists that a radical critique is foremost needed to theorize "empowerment" and demystify the meaning of "agency". I believe it is important to re-analyze how the power relations operationalize in the liberal societal structure in multiple forms as opposed to power relations reduced to one singular form (patriarchal domination) as mentioned in Allen's (2001) critique of radical feminists,

Unlike radical feminist theorists, the neo-abolitionist theorists outrightly reject

the existence of any different categories of prostitution, or recognition of complexities involved in giving consent or making a choice. But neither radical feminists nor neo-abolitionists support the legalization of prostitution or sex work as any other profession. In support of neo-abolitionists, and radical feminist theorists, an American radical feminist and the former Co-Executive Director of the_Coalition Against Trafficking in Women (CATW), Raymond (2003) claims that absolute criminalization of prostitution and trafficking lies at the core of successfully combating with the phenomenon of the commodification of women for the future generations.

The understanding of trafficking and prostitution, as addressed by neo-abolitionists and radical feminists, seems to beget the fear that legalized brothels would have created demand for more women that could have been met through trafficking. But Legg (2014) critiques the idea of criminalization of prostitution by pointing out that "the complete failure to apprehend those involved in trafficking as opposed to the women involved in prostitution is telling" (p. 166). And developing an understanding of this telling failure would contribute towards examining the legal applications of these theories more effectively.

Non-abolitionist theory

Non-abolitionist theorists generally regard sex work as a professional right of women. Like radical feminist theorists who are often politically conflated with neo-abolitionist feminists, liberal feminists are often conflated with non-abolitionists. Simm (2004) notes that non-abolitionist feminists adopt approaches close to pro-

prostitution or pro-sex-work, consistent with liberal, libertarian, and postmodern feminist discourse.

Doezma (2005) argues that sexuality as a site of violence, and the violated body of the sex worker is the central subject of liberal feminists' concern, and hence, they do not advocate for its "disappearance" like neo-abolitionists do. Rather, liberal feminists as well as non-abolitionists, more openly acknowledge various categories of prostitution based on consent. Non-abolitionists advocate that understanding voluntary versus forced prostitution is not in violation of the core principles of feminism, but rather it is the refinement of the feminist ideas of prostitution (Doezma, 2005). Distinguishing between various forms of prostitution based on the nature of consent is not only important for protecting the agency of women but also to uncover the mechanisms of oppression perpetrating sexual violence in sex work and forced prostitution.

Leigh and Wijers (1998) have observed that the historical gap between neo-abolitionist and non-abolitionist theorists and activists has created a huge hindrance in the way of bringing in critical discussions on trafficking in the international arena. The term "trafficking" has a neo-abolitionist stigma attached to it, which creates fear of losing agency by the sex-workers.

Sex workers conceptualize prostitution as a form of work and a matter of personal choice. But "equating or collapsing" the very different analysis of the regulations and abolitionist anti-trafficking discourses "deny the radical implications

of sex workers' politics" (Doezema, 1998, p. 38). False divisions are drawn between guilty/ "voluntary" and innocent/ "forced" prostitutes based on the dichotomy between voluntary and forced prostitution. By reinforcing the belief that "women who transgress sexual norms deserve to be punished," this dichotomy suggests the applicability of deviance theory (Doezema, 1998, p. 42). Kempadoo (2012) asserts that trafficking (a form of global industry/market) and prostitution (a form of work) are far apart from each other, and we will be committing a huge error by trying to equate these two by ignoring their substantive differences. Hence, it is essential to understand the structural and substantive differences between the realities of the world of trafficking and the institution of prostitution.

Miriam (2005) states that the pro-sex work approach of non-abolitionists and liberal feminists is often conflated as both of these theoretical backgrounds assume that the industry of sex work is directly responsible for the rising demand for prostitution. Although the perspective of radical feminists is a little muddled, it is quite clear that both radical feminists and neo-abolitionists believe in regulationist perspective as they view prostitution as a result of exploitative patriarchal force. Non-abolitionists and liberal feminist theorists advocate for reconstructing the field of sex work as a 'profession' with feminist meanings to provide sex workers with security and benefits that they deserve as employees of any industry (Miriam, 2015). Weitzer (2011) asserts that even though legalization of prostitution or sex work might not eradicate all the problems associated with this phenomenon, but it will encourage installing safety measures such as alarm systems, and surveillance in any business

allow for effective interventions in case of an unruly customer.

However, assuming mutual exclusiveness of victimization and agency ignores the central arguments of neo-abolitionists and radical feminists that "men's right to be sexually serviced" is served by the prostitution industry (Miriam, 2005).

Discussion of the inadequacies

The elements of patriarchal domination, agency, coercion, consent, rehabilitation, etc. in the theory of neo-abolitionists as discussed earlier, raise the prospects of analyzing their approach in relation to that of the deviance theorists (shame, deviance, abnormality, criminality.) While understanding the neo-abolitionist approach in anti-trafficking discourse, it is important to analyze the theoretical approach of the neo-abolitionists in relation to the approach taken by the deviance theorists especially because the latter was developed much before the former one. Theoretical critique of deviance theory perspectives in relation to sex work is not only important because theory has not been able to provide an adequate platform for understanding the social phenomenon of sex work, but also for the reason that it sheds a critical light on the nascent stages of development of feminist theoretical perspectives began developing from within deviance theory. On the one hand, neo-abolitionists advocate for absolute abolition, which points towards criminalization of all forms of sex work, both voluntary and involuntary by calling it a practice essentializing permeating violence against women, and on the other hand, the deviance theorists give importance to humanizing and normalizing the so-called "deviants" as they are no different from us (Liazos, 1973).

However, in both these sociological theories, the very emphasis on the "deviants" implies that the identity and subculture of these individuals is kept at the center of the discourse concerning trafficking and prostitution. Unlike the deviance theory, the neo-abolitionist approach does not acknowledge labeling and

stigmatization of the sex-workers. In fact, the neo-abolitionist approach appears to be completely squandering the opportunity of investigating various processes through which individuals get involved in sex-work and has overemphasized on essentializing and generalizing the consequences of all forms of sex work. "Abolitionist approaches to sex work have led to the imposition of limitations on women's mobility in the name of protecting them against the twin "evils" of trafficking and prostitution" (Ditmore, 2012, p. 108). The confused and over simplistic equation of trafficking and prostitution by neo-abolitionist theorists is contributing towards institutional avoidance by prostitutes and minimal reporting of violence against sex workers.

Weitzer (2009) argues that both the oppression paradigm as followed by the neo-abolitionists and the empowerment paradigm as supported by non-abolitionists are one-dimensional whereas a multidimensional approach is needed to understand sex work. Weitzer (2009) also states that deviance framework is no more sensitive to complexities and the structural conditions shaping the uneven distribution of power forcing individuals to involve in non-conventional modes of economic production such as sex-work. Through abundant generalizations without consistently considering the counterevidence, both the neo-abolitionists and non-abolitionists are also involving in serious violation of scientific inquiry (Weitzer, 2009).

As Zatz (1997) argues, legal suppression and condemnation are also the means of further sociocultural production of repression. Sanders (2007) questions' if the reinforced transition out of the "deviant" career as a sex-worker through

criminalization also leads towards the successful reintegration of the ex-sex workers into the society. This does not only challenge the applicability of the deviance theory, and the neo-abolitionist approach, but also the rescue paradigm. Hence, following Foucault's approach, for a theory to deal adequately with complexities of this social phenomenon, it must be able to equip the researchers with tools to delve deep into the meanings of important concepts such as labor, sex, desire, and what criminalization of such practices (even when they are hegemonic in nature) means for above-mentioned almost non-eliminable concepts.

Through above-discussed feminist theories and deviance theory, the academic representation of social phenomenon of sex-work does not seem empirically sound due to unneeded simplifications and conflations. Even if one considers the narrow possibility, these theoretical frameworks do not hold strong scope to conduct a detailed analysis of the complexities of power structures involved in this social phenomenon. Studying these theoretical approaches reveals that such approaches are inadequate to address the issue of trafficking due to their incapacity to investigate how tools of power control and their implications play into larger social, historical, political, and economic contexts. Just like how the rescue framework sounds problematic, the idea of portraying deviance in relation to sex work also seems limited in its horizon.

Ambiguity in language. Abramson (2003) sums up the problem of ambiguity in legal and theoretical language quite well. He states:

""Trafficked people" is a neutral term that avoids connotations of a legal system based on a "savages, victims, and saviors" metaphor, and the tone it sets helps pave the wave for a protective document that is not paternalistic. The downside of not portraying trafficked people as victims, of course, is the door it opens to viewing trafficked people as criminals instead. This pitfall could be avoided by language that recognizes the human rights abuses common to many forms of trafficking and legislation that provide protective measures for trafficked people (p. 501)."

It should be carefully noted that it is not only this one term, but also the notions of choice, consent, coercion, violence, and generalization of concepts like subordination and victimization need critical questioning. What do we mean by protection measures when we follow the United Nations protocol? Are we concerned about reintegration of the 'rescued' or 'protected' victims into the same social structure from where they were taken away?

Although all forms of feminist theories consider 'consent' as an essential element to the debate of determining if the act of prostitution is misogynic and oppressive, but it is not defined or explained in concrete form. I suggest that in such a situation where it is not possible to define a key term with relatively fixed meaning, it is better to develop an alternative framework to combat the phenomenon effectively possibly by going beyond the idea of agency and consent. This will also allow forming distance from political debates wholeheartedly focused on the victory of one camp over other. Also, by minimizing the divisiveness in the debate over sex work, more organizations who have been avoiding talking about this issue due to

strong political and theoretical disagreements will be motivated to work towards combating this phenomenon (Weitzer, 2007). Approaches towards discussing the implications of ambiguity in language and ideas are essential to bring more individuals and communities to work on this issue.

The problem of "consent". As noted in the international legal definition of trafficking as set by the United Nations, coercion and trafficking are inseparable. Necessitating the element of coercion in trafficking demands discussion of the notion of consent in prostitution. Some of the dominant assumptions that inform the mainstream trafficking discourse are that "most women in prostitution are coerced and trafficked, all entry of women into the sex industry is forced, and the notion of consent in prostitution is based upon the false consciousness of falsehood" (Sanghera, 2012, p. 5). Hence, the need of rehabilitation, reintegration, and desirability of rescue processes is automatically assumed. Sanghera (2012) further discusses that the issue of consent has met a broad agreement that the consent is irrelevant in the case of child prostitution. However, in the case of adults, the notion of consent and its fluid nature still demands critical scholarly discussion.

Chew (2012) emphasizes that "recognition of the right of a person to choose her work, including prostitution, must imply the collateral right of another to refuse that work" (p. 79). The rights of the sex workers need to be protected all the time. So, the problem of coercion should be at the forefront of prostitutes' rights' organizations irrespective of if the sex worker stepped into the institution of

prostitution by choice or not. It seems as if it is assumed that the prostitutes who have voluntarily stepped into sex work are no longer coerced or need to be rescued from the systemic patriarchal and neoliberal violence.

Rescue paradigm. McDonald (2004) suggests that we have not reached very far since the white slavery campaign to the contemporary notion of modern-day slavery. The similarities between the two empower the narrative in framing innocent, vulnerable women as lured, deceived, and seduced by evil, and most probably colored men. This necessitates the assumption of all men customers as dominating, and all women prostitutes as subordinated, and unfree (Sullivan, 2003; Kempadoo & Doezema, 1998). This is to further suggest that prostitutes have no agency, and they need to be protected, to be rescued. This assumption inspired by abolitionist theorists has also influenced the development of policy and legal sanctions about trafficking historically as well as contemporarily such as Trafficking Victims Protection Act (TVPA) of 2008. Because of abolitionist campaigns, there is a heavy emphasis on enforcing the element of rescue through the law and order mechanisms. The discourse of "othering women" through imaging them dominantly as third world women who are oppressed and dependent victims has further contributed into objectification of women as helpless individuals without any agency (Kempadoo, 2001). This has further supported the construction of the rescue paradigm by reducing women to mere passive agents acted upon by men while ignoring the social construction of femininity and possibilities of self- objectification.

The most popular method followed by the law enforcement authorities to

effectively rescue trafficking victims is by raiding the brothels. However, this approach has saved only very few trafficking victims and has instead created an environment of fear for voluntary sex workers who fell prey to harsh treatment of law enforcement (Chuang, 2010). Also, it is easy to target venues such as brothels which are already in place and openly pronounced as sex-selling places, but it is not so convenient for law enforcement authorities to intervene into more sound neighborhoods.

This whole rescue paradigm ignores and distorts the influence of the structural factors such as socioeconomic factors, lived realities such as experiences of migrants, and diversity within victims of trafficking in persons (Long, 2004). This is not to say that the victims of trafficking do not need to be rescued, but it is important to rethink and reconsider if this rescue paradigm should remain at the center of combating this phenomenon of the commodification of women through trafficking. The focus on punishing the trafficker and rescuing the trafficked has appeared in the mainstream media repeatedly. In the film, *Trading Women*, Feingold (2004) speaking about this issue of overemphasis on the rescue paradigm, states that *saving little Aspu has more emotional resonance than doing something about changing the conditions of her life*.

A brief case study: The legacy of British colonization

Looking back at the legacy of British colonization in India, one cannot miss the histories of movement of Devadasis from temples to urban brothels. Through the colonial reform movement, the British-affected reformists did not only perceive the tribal customs, such as the devadasi system, as a social evil but also considered it a criminal act to be strictly regulated or abolished (Lee, 2011). Such perceptions led to the enactment of the Criminal Tribes Act (1871) which criminalized more than five hundred tribes of India. The activities of these tribal communities were defined as 'non-bailable' offenses. This process of criminalization and stereotyping did not only lead to continued alienation of the criminalized communities but also resulted in economic marginalization. The temple dancers, as well as the courtesans, were often seen as prostitutes which led to the regulation of their occupations under the legal acts such as the Indian Contagious Diseases Act (1988) and the first Suppression of Immoral Traffic Act (1923).

The social exclusion of the tribal communities as led by the colonial government resulted in the formation of the prostitute villages. The tribes which earlier used to travel around the country performing their activities to earn livelihood were now forced to settle permanently in far-fetched towns and villages. I could not get access to any scholarly sources for understanding the concept of prostitute villages, and hence, I looked at few news articles in Times of India and Al Jazeera. One of the recent articles from Al Jazeera (Gaedtke & Parameswaran, 2013) and Times of India (Kurup, 2006) discuss how prostitution looks like a family supported

business in a prostitute village named Nat-Purwa after the tribal community of Nats. The economic marginalization caused by the enactment of the Criminal Tribes Act (1871) resulted in practice of prostitution among these communities as a survival strategy and now it has become a norm. As mentioned in Gaetdtke and Parameswaran (2013), Agrawal's (2006) study of Migrant Women and Work in India also sheds light on the formation of prostitute villages such as Nat-Purwa in some of the largest states of India including Uttar Pradesh, Madhya Pradesh, and Rajasthan.

Even though the colonial government did not focus closely on the abolition of prostitution, they regulated prostitution by segregating its areas by situating brothels into scandalous sites in the early twentieth century. By isolating brothels from the visible sites of the society, the trafficking trends in women and children stimulated quickly. The overall agenda of how prostitution was treated by the colonial government was to prevent the military from engaging in sexual activities with the uninspected, and untreated prostitutes to save them from venereal diseases (Legg, 2012).

Chatterjee (1992) argues that prostitutes began to be perceived as an outcast group in colonial India as opposed to 'the pivot of aristocratic cultural practices' in pre-colonial India. Oldenburg, in her book 'The Making of Colonial Lucknow: 1856-1877' (1989), analyses the interviews of a number of retired courtesans and claims that the ones who used to enjoy the royal patronage in pre-colonial India began to be perceived as plain sex workers by the British soldiers. The identity of courtesans who were accustomed to work in hierarchical positions to represent the cultural

embellishments through the pleasures of the naush was reduced to randies (prostitutes) of the ordinary chowk brothels. "Singing and dancing, which as cultural activities had once empowered the prostitute to the status of a creative artist, were now transformed into expressions of overt sexuality" (Nead, 1990). Chatterjee (1992) states that this distancing of courtesans, and prostitutes from the good women further imposed the image of the deviant women on them.

Reflecting on the analysis of deviance theory as mentioned previously in the paper, the system of social control and power structure in India is not same as system that Merton refers to while laying grounds for deviance theory. Generalizable living standards such as American Dream could not afford to exist in the pluralistic society of India. Instead of striving to live a collective dream, marginalized and poverty-stricken classes adopt prostitution merely as a tactic for survival. Although there might exist many women involved in sex-work as a matter of their choice, but those women cannot be forgotten who are living in the brothels and prostitute villages in India as if they are living the legacy of colonial mindset, and possibly unaware of their erased identities as humans to live a life with autonomy and respect. Due to nearly inseparable and overlapping populations practicing 'voluntary' and/or 'involuntary' form of sex-work, and even if it is voluntary, it is not an easy task to understand how voluntary sex-work is when it is expected to be followed as a family tradition such as in case of prostitute villages.

Towards future research

Capous Desyllas (2007) notes that, for future research work, it is crucial that the western policy makers, including feminist theorists, as well as other individuals with decision-making authority work towards decentralizing their western power to unpack the trafficking discourse and elements such as consent and rescue involved in it. Also, the anti-trafficking paradigm should not be confused with anti-prostitution debates as the two phenomena are different in character. This is not to reject that it is possible for the trafficked individuals to end up in brothels, but to reiterate the idea of reconsidering the importance assigned to the link between two. Also, the work of the feminist theory does not adequately address the prerogative enhancement of opportunities for the 'rescued' individuals. I believe this is a very important area to develop knowledge about, as even when desired by the 'rescued' individuals, reintegration is either not possible (due to rejection by the family members, the element of shame), or it is immensely difficult (due to trauma faced during trafficking events).

Except moving beyond the simplistic framing of trafficking in persons as a matter of "slaves, sinners, and saviors" (Davidson, 2005), it is also important to unwrap the structural complexities involved in this phenomenon. Sodurland (2005) suggests that protection from trafficking is only offered selectively (to the ones who are deemed innocent) which reinforces disempowerment of the subjects. This literature review has developed my interest in further exploring how intersectionalities such as race and gender have been approached by the feminist

theorists in relation to trafficking in persons. I am interested in asking the question regarding the structural and functional relationship among the different sites where trafficked women work to develop further understanding of the socio-cultural and extra-legal elements involved in this phenomenon. By asserting that the multiple sites of work of trafficked women exist where "women migrate and face abuse, coercion, and sexual exploitation," Jagori (2012) finds that focusing only on sex work as the ultimate site of work of a trafficked woman is problematic (p.161).

Also, concerning prostitution, I believe it is important to theoretically build on the idea that terms like "voluntary", "involuntary", "forced", etc. are not irreversible, and hence, even the women who enter prostitution by choice might be experiencing violence that needs to be addressed through policy making. Also, the trafficked women who might be initially "forced" in the trade, might not be offering their sexual services involuntarily anymore. Ditmore (2012) calls for deepening and solidifying the understanding of the core issue of trafficking to avoid an overly simplistic analysis of "equating sex work and trafficking" which leads to neglection of core processes of trafficking, "namely migration while refocusing the discussion on other problems" (p. 107).

As a continuous phenomenon with extremely low reporting rates, to investigate structural issues lying at the core of trafficking, I believe that with critical theory foundation, it is important to conduct case studies especially in regions like South Asia which serves as one of the largest source regions for internationally trafficked women. In relation to critical studies in transnational trafficking, the

conceptualization of trafficking is enmeshed in issues of illegal migration such that its applicability is immediately reduced in the case of domestic trafficking (Jagori, 2012). Here emerges the need of understanding the continuum of violations through transnational trafficking literature in a way that it could be used to analyze "internal migration processes" (Jagori, 2012, p. 160). An awareness of the specificities of local urban politics, as well as detailed empirical reading of the connections between local, national, imperial, and international shifts towards abolitionism, is crucial to investigate the realities of domestic trafficking (Legg, 2014).

As I am interested in colonial legacies that led to recasting of tribal women in India, this paper has helped to me to form a crucial question in relation to the violence targeted at the dancers turned prostitutes, that is, how do we go about producing a work in emotional resonance with the living experiences of these individuals, who exist in the secluded areas where sex work takes place. Reading this literature has also encouraged me to dig into cultural geography to understand how we take into account the cultural and historical discontinuities that led to the formation of "prostitute villages" in India. Together through critical analysis of "persistent civil abandonment of women who work with sex" and pluralistic Indian colonial legal interpretations of trafficking, I hope to challenge the deeply ingrained economic, racial, and societal injustices perpetrating the prevalence of this problematic phenomenon (Legg, 2014, p. 145).

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