

# **MOVING BEYOND 'SUPPLY AND DEMAND' CATCHPHRASES**

**Assessing the uses and limitations of  
demand-based approaches in anti-trafficking**



**Global Alliance Against Traffic in Women**



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# Executive Summary

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In the anti-trafficking sector, the concept of ‘demand’ typically refers to consumers’, employers’ and clients’ demands for services provided by or products produced by trafficked labour. Although ‘demand’ is widely mentioned in the anti-trafficking literature (see page 16, *What do stakeholders usually say about demand?*), most references to ‘demand’ don’t go beyond brief statements about:

- Needing more research on ‘demand’;
- Raising awareness to reduce demand;
- Demand as a root cause of trafficking; and
- Reducing demand as a trafficking prevention measure.

Generally, two different demand-based approaches are discussed as anti-trafficking strategies: (1) calling for the elimination of the sex work sector, and (2) reducing the demand that enables exploitation in various sectors where trafficking occurs.

## *The demand for sex work*

‘End demand for prostitution’ approaches have been most heavily promoted by prostitution abolitionists, who claim that penalising sex workers’ clients will help fight trafficking. Sex workers rights groups and some anti-trafficking organisations (including GAATW) have strongly opposed criminal penalties against clients as this approach:

- Has not reduced trafficking or sex work;
- Threatens sex workers’ income security and working conditions, such as by increasing competition amongst sex workers, and increasing the vulnerability of sex workers who must negotiate with nervous and scared clients (i.e. less time for workers to determine whether a potential client is safe or not);
- Has not stopped violent or abusive clients who are more experienced at evading law enforcement, but has ended up impacting less experienced clients and ‘good’ clients;
- Dismisses and silences the concerns, priorities and knowledge of sex workers;
- Muddles anti-trafficking efforts by confusing trafficking with sex work;
- Increases police’s power over sex workers; and
- Increases stigma against women in sex work.

Sex workers’ rights groups and anti-trafficking allies have tried to shift the concept of ‘demand’ in a more rights-based direction by: trying to reduce the demand for *unprotected* paid sex (e.g. by empowering sex workers to demand condom use), reducing the demand for exploitative labour practices within the sex work sector, and increasing awareness among ‘demand’ or clients about treating sex workers respectfully and ethically. Many sex workers rights organisations also advocate for *decriminalising* consensual sex work while retaining existing criminal penalties against violence in sex work. They and their allies argue that decriminalisation of *consensual* sex work would:

- Help prevent the misuse of anti-trafficking laws to punish women in sex work;
- Impact the ‘demand’ for commercial sex by increasing women’s power to manage or negotiate working conditions with clients;
- Assist anti-trafficking efforts by fostering cooperation between police and sex workers;
- Reduce police violence against sex workers by changing the amount of power police yield over sex workers; and
- Allow sex workers to report violence and exploitation to the police without fear of arrest.



## ***The demand for exploitative labour practices***

Another anti-trafficking approach to demand focuses on tackling the demand for exploitative labour practices, in any sector where trafficking can occur. In the sex work sector, re-framing demand-based efforts to reducing the demand for exploitative labour practices in sex work may provide a more productive, rights-based approach than the 'end demand for prostitution' approaches currently touted by prostitution abolitionists.

The demand for exploitative labour practices (including, but not limited to the sex work sector) generally refers to labour that is:

- Low cost - including non-payment or underpayment;
- Easy to control - including keeping workers from leaving abusive situations; and
- Unprotected - social attitudes that normalise or justify exploitation and discrimination, unregulated labour.

The demand for low cost, controllable and unprotected labour can stem from globalised economic processes demanding increasingly flexible labour, and discrimination that can normalise or justify exploitation. Although migrant labour isn't inherently exploitable, social and political processes can change migrant labour into labour that can be exploited. Migrant labour becomes cheap, controllable and unprotected when:

- Labour market demands are undermined by immigration policies;
- Migrant workers are labelled or constructed as 'illegal'; and when
- Discrimination against migrants is normalised or justified.

Strategies to reduce the demand for exploitative labour practices include:

- Creating legal migration channels for working-class migrant workers;
- Ensuring coherence between immigration and labour policies;
- Decriminalising migration and protecting migrants' rights;
- Enforcing labour standards and improving working conditions;
- Reducing discrimination against migrants;
- Raising awareness among investors and consumers on how they can help reduce demand.

## ***Uses and limitations of demand-based approaches in anti-trafficking***

The usefulness of current 'demand'-based approaches in anti-trafficking may be limited because:

- The main focus on clients and consumers can mask significant structural factors that need to be addressed, including poverty and restrictive immigration measures;
- Simplistic economic analogies of 'supply and demand' may not help to clarify complex social issues, such as trafficking;
- Demand-based approaches fail to acknowledge migrants' and workers' own demands, motivations, aspirations, resistance strategies and recommendations; and
- People talk about 'demand' and 'supply' as if they're not connected.

Efforts to reduce the demand for exploitative labour practices may be more effective if stakeholders:

- Recognise the different ways supply and demand can shape each other, e.g. a large supply of cheap labour can increase the demand for domestic workers;
- Focus efforts on reducing the ability of employers to demand vulnerable, exploitable labor, in *any* sector, not just the sex work industry;
- Listen to the 'supply's (i.e. workers') demands, such as the demand for safe migration opportunities, and the demand for safe working conditions. It could well be that problems about 'demand' would be best met with 'supply'-side solutions (i.e. strengthening workers' rights). For example, how do domestic workers' organising efforts and labour protections change the expectations and behaviour of employers?



# INTRODUCTION







# INTRODUCTION

*Do simple demand-supply equations assist or impede our understanding of trafficking?*

## ***Moving beyond catchphrases***

'Demand' is widely mentioned in the anti-trafficking sector but few have looked at 'demand' critically or substantively. It is very common to hear urgent statements about reducing demand but relatively few discussions about what 'demand' actually means (see page 16, *What do stakeholders usually say about demand?*). The concept of demand can sound legitimate enough to go unquestioned and familiar-sounding enough to make catchphrases (e.g. 'trafficking is driven by demand') sound credible. Everyone talks about it, but what do we actually know about 'demand'?

## ***Incarceration and consumption***

We've structured this report into two sections. The first section takes a closer look at approaches that call to end all use of commercial sex services. 'End demand for prostitution' approaches have been most heavily promoted by prostitution abolitionists who argue that penalising sex workers' clients will end trafficking in the sex industry. 'End demand for prostitution' approaches have been strongly opposed by sex workers rights groups and their allies, for violating the rights of women who make a living in sex work.

The second section explores the demand for exploitative labour practices in a range of sectors in which trafficking occurs, which can include but is not limited to, sex work. 'End demand' approaches for exploitative labour practices have so far relied on consumer education strategies, manufacturer codes of conduct and supply chain controls.

## ***Assessing uses and limitations of demand-based approaches in trafficking***

GAATW has for the most part, shied away from engaging in or considering demand-based approaches. Since GAATW's inception, our work has been grounded in the experiences, knowledge and priorities of trafficked persons and their communities. As such, most of our work has logically focused on advocating for the rights of trafficked persons and migrant women – the concerns and rights of the 'supply', rather than the 'demand'. Demand-based discourses appear to recognise migrant workers only as 'product' to fit simplistic economic analogies, rather than as persons with rights and aspirations. As such, migrant rights organisations in GAATW's membership have opposed using terms such as 'product' and 'supply' because they reduce workers to commodities. In addition, 'end demand' approaches have been advocated most strongly by prostitution abolitionist groups, which contradicts GAATW's support for sex workers' rights.

Do simple demand-supply equations assist or impede our understanding of trafficking? Given the appeal of the 'demand'



discourse in some anti-trafficking circles, we decided to review the current literature, to determine if it was possible to shape demand-based approaches in a more rights-affirming direction. We were also curious to see if it was possible to engage productively on demand-based issues without perpetuating some of its most problematic and troubling aspects, such as the tendency to frame all sex workers' clients as abusers.

## ***Scope of our analysis***

This information guide assesses the available online literature on: (1) the demand for commercial sex, (2) the demand for exploitative labour practices, and (3) the demand for migrant labour, as they relate to anti-trafficking efforts. In addition to accessing public online resources, we have also sought out literature produced by GAATW member organisations. There was a concerted attempt to seek out materials from a wide range of sources, and materials gathered include literature from GAATW member organisations, anti-trafficking organisations, sex workers rights organisations, NGOs, UN bodies, government offices, and academic researchers.

We have looked at English-language resources only, which biases this report geographically and linguistically. In seeking out materials (using 'trafficking' and 'demand' as main keywords), a significant percentage of the literature referencing demand comes from Western, English-language sources. This is particularly the case regarding literature on the demand for commercial sex, perhaps due to the rising popularity of 'end demand for prostitution' approaches in the US, Australia, and parts of Europe. This bias may also be partly due to the fact that discussions about 'demand' in anti-trafficking focus on countries of destination (such as Western countries). As a result, this guide may read as particularly 'Western-centric' compared to other GAATW publications, as most of the literature referenced here is from the UK, US, Canada, Australia and New Zealand.

This guide is also limited to assessing the demand for adult labour only; analysis into the demand for commercial sexual exploitation of children or child labour is beyond the scope of this guide.

## ***A note about language: 'Sex work' and 'prostitution'***

The terminology around commercial sex can be very politically loaded. Sex workers rights organisations typically refer to commercial sex as 'sex work' and some have argued against using the term 'prostitution'. Groups that are seeking to eliminate all forms of sex work use the term 'prostitution' and reject the term 'sex work'. Since its inception, GAATW has supported sex workers' rights and valued the role of sex workers rights groups in anti-trafficking efforts. However, both 'sex work' and 'prostitution' are used throughout this document. In most cases, this is to maintain continuity

*This guide is limited to assessing the demand for adult labour only; analysis into the demand for commercial sexual exploitation of children or child labour is beyond the scope of this guide.*



between whose opinion is being stated; for example, 'prostitution' is often used when abolitionist efforts are being described, and 'sex work' is used when sex workers rights groups are discussed. In other instances, 'prostitution' is used when discussing frameworks that use the term 'prostitution' rather than 'sex work', e.g. laws in many countries refer to 'prostitution' rather than 'sex work'. Terms in quotes used in this document have also not been altered.

## ***'Abolitionist' and 'prohibitionist'***

There is also contention around how to identify those who wish to eliminate all forms of sex work. Many of those who wish to eliminate all forms of sex work identify themselves as 'abolitionists', i.e. working to abolish prostitution. In this document, these groups are identified as 'prostitution abolitionists' to differentiate them from 'abolitionists' in other movements (e.g. movement to abolish slavery). It should be noted that some sex workers rights allies feel that 'prohibitionist' is a more accurate description of these groups, as the measures abolitionist groups call for are generally based on increasing criminal penalties around consensual sex work. While prostitution abolitionists see their efforts as akin to abolishing slavery, sex workers rights allies and others see them as prohibitionists and their efforts more akin to prohibiting a social vice.



# What do we mean by the word ‘demand’ in the anti-trafficking context?

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*While accepting the need to address demand, it is important to acknowledge the limits of a term that is not properly defined, is under-researched and is still subject to debate and confusion.<sup>1</sup> – United Nations Office of the High Commissioner for Human Rights*

## ***Types of demand***

The concept of ‘demand’ in anti-trafficking is often ambiguous and ideologically loaded, particularly when talking about sex work. Some have tried to clarify what ‘demand’ can mean and how different definitions of demand shape anti-trafficking efforts.

There are different types and different levels of demand<sup>2 3 4 5</sup>:

- Third parties who recruit and traffic persons for forced labour or services;
- Employers and businesses who use forced labour, whether it’s a specific demand for forced labour or a demand for exploitative labour practices that is met with forced labour; and
- Consumers of forced labour (e.g. employers of trafficked domestic workers) and/or products made by forced labour.

In the highly polarised debates around sex work, prostitution abolitionist advocates define demand as: male buyers of commercial sex services provided by female sex workers, persons who work in the sex trade industry (e.g. receptionists, security, business owners), and states that ‘tolerate’ prostitution.<sup>6 7</sup>

‘Demand’ in the anti-trafficking and labour rights context typically refers to the demand of employers for labour, or the demand of consumers for cheap, available products (that may be manufactured by forced labour). Much less is discussed about the ‘demand’ from migrants for employment opportunities, women’s demands for safe migration options, or sex workers’ demands for better working conditions. This is one significant limitation of current demand-based discourses in anti-trafficking.

The International Labour Organisation has suggested that it may be more precise to talk about ‘destination-side factors’ rather than ‘demand’:

*“[D]emand” refers to the desire and preference for a particular commodity, labour or service while the “demand side” of trafficking refers to the nature and extent of exploitation of the trafficked victims after reaching the destination point as well as the social, cultural, political, economic, legal and development factors that shape the demand and influence or enable the trafficking process.<sup>8</sup>*

*It is also important to acknowledge a distinction between the causes or factors that shape demand and the demands themselves.<sup>9</sup> - United Nations Office of the High Commissioner for Human Rights*

The concept of ‘demand’ in anti-trafficking is sometimes seen as a way to talk about the complicity of countries of destination in maintaining trafficking, and as a way to address the exploitation of workers in countries of destination. However, the concept of ‘demand’ may not be adequate to address all of the trafficking issues



involving countries of destination. It also tends to ignore how globalization has resulted in the migration of *work* beyond the migration of *workers*. For instance, the concept of ‘demand’ in many contexts seems to bypass or ignore governments’ human rights obligations by suggesting that the ultimate onus to stop trafficking lies with individual consumers<sup>10</sup>, or bypass the global nature of companies which have relocated or outsourced to countries with lower wages, and lower human rights standards.<sup>11</sup>

## ***International documents that refer to ‘demand’***

The UN Trafficking Protocol (or the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children), the foremost international tool on human trafficking, includes a very general reference to demand:

***States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.***<sup>12</sup>

The *Recommended Principles and Guidelines on Human Rights and Human Trafficking*<sup>13</sup> by the UN Office of the High Commissioner for Human Rights (OHCHR) references demand as a root cause of trafficking, and as an area for trafficking prevention efforts, including: “*analysing the factors that generate demand for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues.*” In 2010, the UN OHCHR published a commentary to the *Principles and Guidelines* that includes a useful overview of the opportunities and limitations of demand-based approaches in anti-trafficking. The commentary:

- Emphasises the need for clarity on what ‘demand’ refers to;
- Outlines states’ roles in reducing demand;
- Analyses the links between demand and discrimination;
- Discusses the use of criminalisation approaches to address demand; and
- Emphasises the importance of labour protections in reducing the demand for trafficked labour.<sup>14</sup>

The African Union’s Ouagadougou Action Plan to Combat Trafficking in Human Beings, Especially Women and Children calls for “*measures to reduce the demand for services involving the exploitation of victims of trafficking in human beings*”.<sup>15</sup> The Council of Europe Convention on Action Against Trafficking in Human Beings and its Explanatory Report<sup>16</sup>, Article 6, identifies demand as a root cause of trafficking and calls for: more research, more awareness, and targeting demand through prevention measures. The recent EU Anti-Trafficking Directive, Article 25, states: “*Member States should establish and/or strengthen policies to prevent trafficking in human beings, including measures to discourage and reduce the demand that fosters all forms of exploitation.*”<sup>17</sup>

The US government has so far unfortunately taken a very narrow and ideological position on demand by arguing, without citing any reliable evidence, that eliminating the demand for commercial sex will help fight trafficking.<sup>18</sup> This approach is reflected in the US government’s annual Trafficking in Persons (TIP) report which is used to influence anti-trafficking policy in various countries. In the annual US TIP report, countries that have not increased criminal punishments against clients of sex workers (with no distinction between consensual commercial sex and trafficked prostitution) are evaluated as not tackling ‘demand’ adequately. This approach has been strongly protested by sex workers rights groups, anti-trafficking organisations (including GAATW), academics, researchers and other allies.<sup>19</sup> They have protested that a narrow focus on ‘demand’ for commercial sex limits anti-trafficking efforts, simplistically confuses trafficking with sex work, results in human rights violations against sex workers, and bases government policy on ideology rather than sound evidence.<sup>20</sup>



*Because it is known that the [US] State Department conflates all sex work with human trafficking, it is often possible for a country to get off a watch list simply by enacting a law which represses non-trafficked sex workers.<sup>21</sup> – Anna Weekes, Sex Worker Education and Advocacy Taskforce (SWEAT)*

*We are deeply concerned that the [State Department document entitled “Prevention: Fighting Sex Trafficking by Curbing Demand for Prostitution] is illogical, misleading and therefore potentially damaging to on-going efforts globally to prevent trafficking and protect the rights of trafficked persons. The document moves policy away from assessing actual factors contributing to human trafficking and evidence of what works to end abuses, and towards programs and policies based on presumed associations between male desires (so called ‘demand’) and the abuses of trafficking for forced labor.... The proposals and statements in the document threaten to divert precious resources from protecting victims of trafficking who urgently need help into a politically contested and futile anti-prostitution campaign.<sup>22</sup> – Rights Work Initiative*



# What do stakeholders usually say about demand?

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Most mentions of demand don't extend far beyond what is mentioned in a few international anti-trafficking instruments, such as the UN Human Trafficking Protocol, the UN OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, and the Council of Europe Convention on Action Against Trafficking in Human Beings. This includes general statements that:

- Research is needed to understand demand;
- Awareness raising efforts can reduce demand;
- Demand is a root cause of trafficking; and
- Reducing demand as a prevention measure.

***[W]ithout 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.***<sup>23</sup> - Dr. Bridget Anderson and Dr. Julia O'Connell Davidson

It's puzzling to see how such an ambiguous concept like 'demand' is used to simplify a complex issue as trafficking. For instance, it's common to read that 'trafficking is simply supply and demand' or 'trafficking is driven by demand', even though there isn't a lot of clarity on what 'demand' actually means. The ambiguity around 'demand' can often make catchphrases such as 'trafficking is supply and demand' more credible than they might otherwise appear.

***...there is no international consensus on the central question behind any economic analysis of trafficking...***<sup>24</sup> - Commentary on Recommended Principles and Guidelines on Human Rights and Human Trafficking

A simplistic 'supply and demand' analogy often seems to rely on the idea of workers as products (e.g. 'traffickers move victims like product'). Ironically, one study found that trafficked persons would have more rights as 'commodities' under trade law than they may have as migrants.<sup>25</sup>

Defining trafficking as a simplistic 'supply and demand' equation can miss other nuances that could help clarify anti-trafficking strategies. Commodifying workers through demand-based discourses ignores the very real fact that trafficked persons, migrants and workers are people who are trying to access labour and migration opportunities for themselves and their families, and who often try to resist or escape exploitative situations.

***It is the hidden interaction of demand and supply, desire and aspiration for a better life that also makes them vulnerable to traffickers.***<sup>26</sup> – International Labour Organisation

For instance, a study of sex worker recruitment along the Lao-Thai border found that the simplistic market models used by the anti-trafficking sector were ultimately ineffective in reducing trafficking, as they did not reflect the actual social processes that informed women's choices about work and migration.<sup>27</sup> While the simple supply/demand equation aided anti-trafficking organisations in organising their work, it didn't capture the fact that women's motivations for entering sex work across the border also depended on women's desire for anonymity.



***Several Lao sex workers who work in Nong Kai see their reason for working in Thailand as such. Not only does it provide a taste of life in Thailand, but also allows them to escape social policing and surveillance by community members at home. Several informants said that if they worked in Laos they would be concerned that relatives and friends would find out what type of job they were doing. Hence, working in Nong Kai can be seen as a strategy to control information. – Dr. Sverre Molland***

Many casual references to supply/demand and trafficking seem to assume that demand creates the supply, particularly in debates about prostitution. However, supply and demand can impact each other in various ways; for example, supply can shape demand.<sup>28</sup> For example, studies have found that a supply of cheap domestic workers can create a 'need' that wasn't otherwise there.<sup>29 30</sup>

***Expatriate British employers who had managed with a weekly cleaner in the UK, found that they 'needed' to employ two live-in domestic workers in a similar sized house in Bangkok. One interviewee stated that when she had lived in Indonesia, where domestic workers were paid even less than in Thailand, she had employed eight domestic workers. Similarly, client interviewees identified the visibility and affordability of commercial sexual services as a factor influencing their decisions to buy sex.<sup>31</sup> – Dr. Bridget Anderson***







# WHAT IS THE LINK BETWEEN TRAFFICKING AND THE DEMAND FOR SEX WORK?



# WHAT DOES 'END DEMAND' MEAN IN RELATION TO SEX WORK?

The idea of 'ending demand' for the sex work sector has been most promoted by prostitution abolitionists and strongly opposed by sex workers' rights groups. Prostitution abolitionists seek to eradicate sex work or prostitution by reducing the number of men who pay female sex workers for sexual services, or what they call the 'demand' for paid sexual services.<sup>32 33</sup> In practice, this has typically meant criminalising, incarcerating or shaming male clients who pay for sexual services from women, and those who are perceived to enable male clients to pay for sexual services (e.g. business owners, culture, state).<sup>34</sup>

*Simplistic solutions don't solve complex problems: Prostitution is where sex and money and gender and power all come together – some of the most actually and symbolically important and complicated phenomena in our, or any, society. Simple ideological solutions just don't work.*<sup>35</sup> – International Union of Sex Workers

## **What do we really know about sex workers' clients, or the 'demand' for commercial sex?**

Research has found that sex work varies greatly across different contexts, in terms of working conditions for sex workers, rates, services provided, and what the buying and selling of sex means.<sup>36</sup>

*The term "prostitution" does not refer to a uniform experience. To describe as "sex slavery" the condition of an adult woman who works independently as an escort partly because it satisfies her own personal interest in anonymous sex and partly because she can earn upwards of 2000 Euros per week from it is clearly unsatisfactory, just as it would be unsatisfactory to describe as a "sex worker" a teenager who has been kidnapped, imprisoned and physically forced to prostitute.*<sup>38</sup> – Dr. Julia O'Connell Davidson

Research has found clients of sex workers to be a very heterogeneous group with great diversity in their attitudes, behaviours, motivations, preferences, and profiles.<sup>39 40 41 42 43 44</sup> The research on sex workers' clients tends to be divided between studies that take an 'everyman perspective' where clients have not been found to be significantly different than the general male population, and studies that have taken a 'peculiar man' perspective that frames paying for sexual services as pathology or highly deviant.<sup>45</sup>



*In Scandinavia, social pressures to be a real man seem to vie with strong social pressures not to buy sex, turning prostitute-use into an essentially private rather than public activity. Conversely, our Thai respondents perceived no tension between being ‘a man’ and using prostitutes, indeed prostitute-use was depicted as normative masculine behaviour at certain stages of the life-cycle and amongst certain groups.<sup>46</sup> – Dr. Bridget Anderson and Dr. Julia O’Connell Davidson*

The cost of commercial sex can influence demand, with some clients preferring lower prices and some clients seeking out higher-priced sex workers.<sup>47 48</sup> In addition to cost, clients’ preferences can also depend on age, attractiveness, personality and ‘character’<sup>49</sup>, virginity<sup>50</sup>, body type, and racialised identities.

*Another reason why Thai sex workers were preferred by interviewees was simply that it is easier for Thai clients to communicate with them – ‘It’s hard to have sex without talking, because if you can’t talk, you lose the feeling.’ Questioned about the relative ‘merits’ of local and migrant sex workers, Danish interviewees also stated that it is preferable to use a worker who speaks the same language. They too placed local workers at the top of the prostitution hierarchy, arguing that Danish sex workers offer a better service than migrant women.<sup>51</sup> – Dr. Julia O’Connell Davidson*

## **What assumptions is the ‘end demand for prostitution’ approach based on?**

The ‘end demand for prostitution’ approach is based on certain assumptions that are strongly contested by sex workers, including the following:

### **Demand shaping supply vs. supply shaping demand**

A few prominent prostitution abolitionists argue that supply (or sex workers) is solely determined by men’s demand for prostitution and by those who are perceived to enable male clients to pay for sexual services from female sex workers (e.g. business owners).<sup>52</sup>  
53 54

Others have suggested that supply may be just as or more likely to shape demand than the other way around.<sup>55 56</sup> Visibility and affordability of commercial sexual services also factor into clients’ decisions to pay for sexual services.<sup>57</sup>

*The ‘end demand for prostitution’ approach is based on certain assumptions that are strongly contested by sex workers.*



*It is not the number of customers but economic trends and social conditions such as unemployment and a shortage of living wage opportunities that determine the number of sex workers at any given time.<sup>58</sup> – Urban Justice Center Working Group on Sex Work and Human Rights (New York City)*

*[T]he decision to buy sex is partly shaped by cost considerations. If the price of commercial sexual services rose to one million dollars a piece, then demand would certainly fall dramatically. In this sense, we can say that a supply of prostitutes who are willing or forced to sell sex at affordable prices creates demand as much as the other way about.<sup>59</sup> – Dr. Julia O’Connell Davidson*

## **Violence in sex work vs. sex work as violence**

Violence against sex workers is identified as a priority by both sex workers rights groups and prostitution abolitionists although they define the issue very differently. Prostitution abolitionists believe that sex work is inherently about violence, and that all sex work constitutes violence against women.<sup>60 61</sup>

Sex workers rights groups have also identified violence as an urgent issue but argue that it is about addressing violence that occurs in sex work. Sex workers rights groups have argued that violence by the police and by the state is the greater threat to women’s safety.<sup>62</sup>

Sex workers rights groups have also argued that client criminalisation measures have resulted in sex workers having to accept more violent or abusive clients as the pool of ‘good’ clients diminishes.<sup>63</sup>

*‘sex work is to trafficking as sex is to rape’: Just as we can work to end sexual assault without trying to end all sex, we can work to end trafficking without trying to eradicate sex work. And just as we can support survivors of sexual assault without blaming them (although that certainly isn’t how lots of people approach the issue), we can support people who have been trafficked without criminalizing them....If you understand the difference between sex and rape, then you understand the difference between sex work and trafficking.<sup>64</sup> – Charlie Glickman*

## **Sex workers’ right to consent and to have their consent respected**

One of the main disagreements between prostitution abolitionists and sex workers rights allies (apart from the obvious) is the abolitionist belief that sex workers’ consent doesn’t matter or that women are incapable of consenting to a sexual interaction if there is money involved: “*This is not to deny that some women do consent to their own exploitation...we maintain, however, that consent is not the issue*”.<sup>65</sup>

From a sex workers’ rights perspective, the idea that women’s consent can be ignored perpetuates gender inequality. The idea that it is okay to ignore a woman’s consent because she is in sex work is also puzzling when women have rights based on multiple identities. If women are not allowed to have their consent acknowledged as sex workers, is their consent ‘allowed’ as migrant women, or as workers?



*This is not consistent with the ambition of empowerment that contemporary social work perceives as an important platform for its work. To unilaterally proclaim someone as an exploited victim or needy belongs to the so-called paternalistic tradition where the experts have power to define the clients.*<sup>66</sup> – Department of Social Work, University of Gothenburg, Sweden

## ***Sexual services vs. sexual commodities***

Prostitution abolitionists continue to argue that women in sex work can only be commodities that clients can use however they wish.<sup>67 68</sup> Sex workers rights groups and their allies argue that sex work is about the negotiation for sexual services not ownership of bodies, and that all sex workers *should* have the right to determine what services they provide and under what circumstances, what clients they will see, and how much they charge.



# WHY ARE 'END DEMAND FOR PROSTITUTION' APPROACHES BEING PROMOTED AS AN ANTI-TRAFFICKING STRATEGY?

## ***Trafficking in the sex work sector***

'End demand for prostitution' advocates have sometimes argued that because trafficking occurs in the commercial sex sector, eliminating sex work will eliminate trafficking.<sup>69 70</sup> This argument has been critiqued by anti-trafficking organisations, including GAATW, and sex workers rights organisations for being a simplistic and misguided solution. For instance, feminists have also struggled to get domestic violence recognised as violence. However, few have publicly argued that the institution of marriage should be abolished to eradicate domestic violence. Trafficking is about profit and exploitation – eliminating a whole sector wouldn't necessarily eliminate trafficking, but would move it to another sector or site where workers lack rights protection.

***It would be nonsensical to abolish all forms of garment manufacturing in which people are trafficked; rather, states must monitor recruitment practices, protect labour rights of garment workers, ensure occupational health and safety and like measures.<sup>71</sup> – GAATW***

The argument that trafficking occurs mainly because men pay for sexual services ignores the significant structural factors that cause forced labour and debt bondage in various sectors.

***A 'demand-based' focus hides the fact that trafficking is not about prostitution but about poverty. It blames clients instead of putting the responsibility onto governments to address these injustices.<sup>72</sup> – English Collective of Prostitutes***

***[C]lients demand for sexual services cannot in general be understood as what causes trafficking into the sex sector.<sup>73</sup> – International Labour Organisation***

Anti-trafficking and anti-violence efforts need to distinguish between seeking commercial sexual services from a sex worker, and seeking out trafficked or exploited labour. There is more research available on clients of sex workers than on clients of *trafficked* women in prostitution.<sup>74</sup> There is no evidence that the bulk of clients wish to receive services provided by exploited labour, whether for ethical reasons and/or selfish reasons. There is evidence that some violent offenders seek out sex workers, partially because their extremely marginalised status is unlikely to attract notice or concern from authorities.<sup>75 76</sup>



*Moreover, to insist that they do not buy sex from unfree workers is a way in which many clients claim social status. It establishes the fact that they themselves are not poor, uneducated, unsophisticated, immoral and/or migrant. However, it was very clearly the case that these clients were much less likely to pay for sex with unfree workers than were clients who imagined prostitutes as objects of trade and/or who deliberately sought out the most vulnerable sex workers in order to exercise greater control within the prostitute–client transaction.<sup>77</sup> – Dr. Julia O’Connell Davidson*

*[W]hen interviewees spoke of the immorality of forced prostitution, such comments were invariably followed by, or interwoven with, comments to the effect that they personally would find it a sexual turn-off to use a worker who they could not imagine had freely chosen prostitution, and/or that prostitutes working in the poorest conditions are less likely to be able to provide them with the kind of service they prefer.<sup>78</sup> – Dr. Bridget Anderson and Dr. Julia O’Connell Davidson*

## **The ‘Swedish model’**

The Swedish government’s Sex Purchase Act (1999), or the ‘Swedish model’ is probably the most well-known example of a law explicitly prohibiting the purchase of sexual services, or a ‘demand-based’ approach. Sweden’s Sex Purchase Act is based on a view that defines prostitution as a form of gender inequality and violence against women. In this analysis, men who pay for sexual services are perceived to be the main cause of trafficking and prostitution.<sup>79</sup>

*Another unique aspect of the Sex Purchase Act is how persistently the ban, or the “Swedish model”, has been marketed. One of the stated aims from the very outset was to export it to other countries. Both governments, authorities, political actors and Non Governmental Organizations (NGOs) have devoted time and money to market it internationally. Pamphlets, websites, articles, books and movies have been produced and lobby activities have been conducted towards*





*the European Union (EU) and the rest of the world with the help of this material and via workshops, seminars and debates.<sup>80</sup> - Susanne Dodillet and Petra Östergren*

For more information, see *What consequences do 'end demand for prostitution' approaches have on anti-trafficking efforts?* (page 28).

## **US government's anti-prostitution pledge and anti-trafficking rankings**

The confusion between eliminating prostitution and tackling trafficking was institutionalised by the US government under the Bush administration.<sup>81</sup> The PEPFAR pledge (or the US President's Emergency Plan for AIDS Relief) requires all funding recipients to explicitly oppose sex work.<sup>82</sup> Therefore, sex worker-led organisations working on HIV/AIDS prevention and/or trafficking are unable to access US funding.

*"Over the last six years, the broad scope of the U.S. anti-trafficking policy has been gradually narrowed to fit a prostitution agenda that is based on the unproven belief that all prostitution (even legal prostitution in Nevada) is trafficking, and so criminalizing prostitution, as well as clients, is promoted as a purported means to stop prostitution and to stop trafficking for prostitution. This approach assumes that, once all men who buy sex are in prison, all women in prostitution will magically disappear and find other means of support."<sup>83</sup> – Ann Jordan, Director of the Initiative Against Trafficking in Persons, Global Rights*

The US State Department's annual Trafficking in Persons (TIP) report evaluates countries on their anti-trafficking efforts and ties US aid or trade relations to countries' rankings. One of these criteria is whether countries have increased criminal punishments against clients of sex workers (regardless of whether transactions are consensual or not). This approach has been strongly protested by sex workers rights groups, anti-trafficking organisations (including GAATW), academics, researchers and other allies.<sup>84</sup>

*Because it is known that the [US] State Department conflates all sex work with human trafficking, it is often possible for a country to get off a watch list simply by enacting a law which represses non-trafficked sex workers.<sup>85</sup> – Anna Weekes, Sex Worker Education and Advocacy Taskforce (SWEAT)*

The US's approach is in direct contrast to the primary international instrument on trafficking, the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (or the UN Human Trafficking Protocol):

*The value of the definition of trafficking in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, is the autonomy it gives to governments to take their own positions on consensual prostitution, while requiring them to criminalise all coerced prostitution.<sup>86</sup> – GAATW and La Strada International, a European anti-trafficking network and GAATW member*



## ***A more media-friendly guise for prostitution abolitionist agendas***

The prostitution abolitionist discourse has been criticised for relying on sensationalistic and hyperbolic statements, misrepresenting or ignoring research, disseminating misinformation, and making emotional generalisations about all sex workers as victims and all clients as predators.<sup>87 88</sup>

However, the 'demand' discourse as it relates to sex work still has great public appeal. Approaches based on criminalization or incarceration approaches can be easily critiqued, particularly given the increasing awareness of the prison-industrial complex and the impact of militarisation on women's rights. Those who might otherwise question the idea of criminalising consensual commercial sex transactions or threatening sex workers' income security might be more willing to accept a softer-sounding approach about 'demand'.



# WHAT CONSEQUENCES DO 'END DEMAND FOR PROSTITUTION' APPROACHES HAVE ON ANTI-TRAFFICKING EFFORTS?

Human rights based anti-trafficking organisations (including GAATW) and sex workers rights organisations have protested the use of 'end demand for prostitution' approaches or criminalising sex workers' clients as an anti-trafficking strategy. Criminalising all clients of sex workers goes against several of the principles GAATW advocates for in all anti-trafficking efforts<sup>89</sup>, including:

- Anti-trafficking measures must be developed in consultation with groups affected by trafficking and/or anti-trafficking measures;
- Groups such as sex workers have a valuable role to play in formulating solutions and countering trafficking;
- Anti-trafficking efforts must be based on evidence and recognise all forms of trafficking in various sectors, including the trafficking of men; and
- Anti-trafficking measures should not result in further human rights violations against stigmatised groups.

'End demand for prostitution' approaches tend to contradict these principles. Evidence has shown that 'end demand for prostitution' approaches<sup>90 91 92 93</sup>:

- don't reduce trafficking;
- ignores trafficking into other sectors;
- tends to rely more on ideology rather than sound evidence;
- confuses trafficking with sex work;
- increases stigma against sex workers; and
- is more focused on punishing men who pay for sexual services, rather than protecting women's rights.

*We maintain that the issue of demand should be discussed in all its complexity and states should not be led to believe that by criminalising prostitution they can address the demand for trafficked persons' labour or cheap labour or even exploitation within prostitution. States must be held accountable for the model of development they are adopting, which is increasing the vulnerability of many women and men.<sup>94</sup> – La Strada International, a European anti-trafficking network and GAATW member*

*Several sex workers say that they feel used by politicians, feminists and the media. They think that sex workers are only listened to and being paid attention to if they say the correct things, i.e. that they find prostitution appalling, that they are victims, that they have stopped selling sex*



*and will never go back, and that they are grateful to the current prostitution policy and to the policy makers... They question whether any other social group would have been so consistently excluded from any relevant policy making process.<sup>95</sup> – Petra Östergren*

## **The ‘Swedish model’ has not reduced trafficking for prostitution**

The Swedish government’s Sex Purchase Act (1999), or the ‘Swedish model’ is generally known for purportedly punishing the clients of sex workers only, and for defining all women in prostitution as ‘victims’.<sup>96</sup> In a 2010 official evaluation of the Sex Purchase Act, the Swedish government claimed that increasing criminal punishments against sex workers’ clients: reduced prostitution, reduced trafficking for the purposes of prostitution, decreased the number of clients, and reformed social attitudes.<sup>97</sup>

However, these claims have been strongly refuted by various sex workers rights groups, sex work researchers, anti-discrimination researchers, and policymakers, both inside and outside Sweden.<sup>98</sup> The Swedish government’s evaluation of the Sex Purchase Act has been heavily criticised for:

- Lacking a sound research methodology;
- Uncertainty about quantitative estimates before and after the legislation was passed;
- Lacking an objective starting point, as it was stated from the outset that the legislation would continue to be in effect regardless of the evaluation’s findings;
- Conflating trafficking and prostitution;
- Using a very narrow understanding of prostitution;
- Lacking analysis of confounding factors; and
- Not consulting with sex workers: *Since sex workers had not been given enough opportunity to participate in the official evaluation and influence the definition of their own needs and their situation, it claimed that the evaluation contributed to their disempowerment.*<sup>99</sup>

**After a close examination of the Swedish government’s evaluation of the Sex Purchase Act, the consensus among sex workers rights advocates, anti-discrimination and sex work researchers and other stakeholders (in Sweden and internationally) is that the Sex Purchase Act<sup>100</sup>:**

- **Has not reduced trafficking for the purposes of prostitution**

- **Has not reduced sex work**
- **Has not deterred clients**

In Sweden, the consensus is that visible *street-based* sex work decreased by half immediately after the law was introduced. However, levels of street-based sex work have been gradually returning to about 2/3 of the extent prior to the legislation.<sup>101</sup> There is also general agreement that sex work didn't decrease but moved indoors and online.

Although the Swedish Police have claimed that the ban on purchasing sex has deterred criminals, the National Council for Crime Prevention pointed out that the legislative ban can be perceived as either a barrier or a tool, by increasing the price of sexual services in a criminalised climate.

*On the one hand it can reduce the number of women used in trafficking – but also provide a reasonably good profit for those traffickers that have the capacity to provide sexual services without being caught by the authorities. This in turn makes Sweden an attractive country for the more sophisticated criminal.*<sup>102</sup>

Sweden has not generally had great flows of trafficking for prostitution, either before or after the ban, with less than 50 people reported for trafficking for sexual purposes per year, from 2003 to 2010.<sup>103</sup>

The international attention paid to Sweden's efforts to combat trafficking for *prostitution* contrasts with other trafficking and labour exploitation issues in Sweden which have received far less attention. For example, in 2010, the Lomsjo berry company refused to pay 156 Thai workers who had been recruited to Sweden to work on farms.<sup>104 105</sup>

*The growing abandoned worker phenomenon in Sweden is partly the result of a new law, pushed through by immigration authorities last year. The law guarantees seasonal workers a minimum monthly salary of two thousand five hundred dollars. That may sound good. But recruiters and berry companies have used this law to lure Asian workers to Sweden, getting them to lay out their own money for the plane fare. No one is really sure if and when the government will pay out the salary guarantee to the cheated workers.*<sup>106</sup>

Sweden's approach also confuses the distinction between trafficking women and women migrating to Sweden for sex work. In 2006, the National Police Board introduced a new but vaguely defined term called "trafficking-like" prostitution which is "*foreign women who during a temporary visit to Sweden, offer sexual services*".<sup>107</sup> This can only confuse Sweden's anti-trafficking efforts by defining trafficking as a crime of illegal migration, rather than exploitation.

## **'Demand-based' approaches, i.e. criminalising clients, muddles anti-trafficking efforts**

Trafficking is a gross human rights violation which demands effective intervention. Given its seriousness and complexity, it's imperative that anti-trafficking measures actually impact trafficking rather than simply promoting a particular ideology about sex work.<sup>108</sup>

*La Strada International promotes the rights of sex workers, but does not promote a specific legislation on prostitution. La Strada International does not advocate the abolition of prostitution or the criminalisation of clients of sex workers. Human trafficking occurs both in countries where sex work is legal and in countries where aspects of commercial sex are criminalised. La Strada International is convinced that focusing the debate on the abolition of sex work will not lead to the protection of the human rights of the women concerned.*<sup>109</sup>  
– La Strada International, a European anti-trafficking organisation and GAATW member



Anti-trafficking organisations have also pointed out that in some cases, clients can or have helped to identify trafficked persons and helped women escape trafficked situations.<sup>110 111 112</sup>

*Criminalising the client means that clients of sex workers are lost as potential sources of information about the abuse, exploitation or trafficking of people in the industry. Sex workers who are trapped or exploited have regular contact with clients, and these clients are often the only people sex workers can confide in if they are being kept against their will. If clients themselves were considered criminals they would certainly be very reluctant to come forward to assist these women. Sex workers themselves are often experts at identifying sources of exploitation.*<sup>113</sup> – Nico Fick, Sex Worker Education and Advocacy Task Force (SWEAT), South Africa

## **‘End demand for prostitution’ approaches dismiss and silence the concerns, priorities and knowledge of sex workers**

One of GAATW’s main messages over the years has been that anti-trafficking measures must be developed in genuine consultation with groups that are most affected by trafficking and/or anti-trafficking measures, including sex workers.<sup>114</sup> The ‘end demand for prostitution’ approach purportedly tries not to marginalise sex workers by focusing on their clients. However, the ‘end demand for prostitution’ framework threatens sex workers’ income and ultimately relegates all women in sex work to the role of victims. This is reinforced by attitudes that argue sex workers who do speak up are ‘in denial’, ‘not in the right mind’, ‘self-hating’ or in effect, deserve to lose the right of custody over one’s body.<sup>115</sup>

*“We are saddened that the effort of sex workers themselves are not supported by many feminists who in fact prefer to see us as victims or threats rather than as allies in the fight for women’s rights”*<sup>116</sup>

Since its inception, GAATW has valued the role of sex workers rights organisations in anti-trafficking efforts. ‘End demand for prostitution’ approaches not only threaten the effectiveness of anti-trafficking efforts, they can often place sex workers at greater risk of violence and exploitation.

### **They harm those they supposedly seek to ‘protect’**

Laws targeting demand (i.e. clients of sex workers) often end up endangering and victimising the ‘supply’ (i.e. sex workers), rather than decreasing ‘demand’.<sup>117</sup>

*Efforts to reduce demand seem to have mixed results, although the evidence is weak. It appears that the consequences of policy changes are often hidden or practically immeasurable. Also the risk of displacement threatens to negate any gains of enforcement activity making prostitution an even more hidden and secretive enterprise.*<sup>118</sup>

‘End demand’ or criminalisation approaches not only fail to reduce trafficking and sex work, but they have also resulted in further harms and human rights violations against sex workers (supposedly the group ‘end demand’ approaches are meant to protect).

*The Committee considers all forms of criminalisation run the risk of driving prostitution underground and producing negative health and safety consequences for sex workers.*<sup>119</sup>  
- Prostitution Law Review Committee on the Operation of the Prostitution Reform Act 2003, New Zealand



The World AIDS Campaign argues that the criminalisation of sex work, including ‘demand-based’ approaches violates the following rights of sex workers:<sup>120</sup>

- *The right to dignity*
- *The right to non-discrimination*
- *Access to health care services*
- *The right to bodily and psychological integrity*
- *Freedom of thought, belief and opinion*
- *The right to choose one’s trade, occupation or profession freely*

### The ‘Swedish model’ still includes laws against women in sex work

The general perception that the Swedish government’s Sex Purchase Act (1999) only punishes sex workers’ clients is a misinterpretation. Sweden still retains laws against pandering, which typically means pimping or promoting another’s involvement in sex work, but which could also be used to criminalise sex workers’ partners (e.g. spouses) and activities such as condom distribution. Sweden also retains laws governing the forced eviction of tenants in apartments used for prostitution:

*The overall implications of these laws is that no one can operate a brothel, rent an apartment, room or hotel room, assist with finding clients, act as a security guard or allow advertising for sex workers. This in turn implies that sex workers cannot work together, recommend customers to each other, advertise, work from property they rent or own or even cohabit with a partner (since that partner is likely to share part of any income derived from sex work.).<sup>121</sup> – Susanne Dodillet and Petra Östergren*

Swedish law also allows the government to target women migrating to Sweden for sex work, through the Aliens Act:

*Foreigners who have residence permits may be refused entry if it can be assumed that the person will commit a crime or that he or she will not support themselves “by honest means” during their stay (Chapter 8, 2.2). This includes engaging in prostitution.<sup>122</sup> – Susanne Dodillet and Petra Östergren*



## Criminalising sex workers' clients threatens sex workers' income security and working conditions

*The criminalisation approach doesn't work because how do you empower people if you threaten their livelihood?<sup>123</sup> – Dr. Nick Mai*



One of the obvious harms of 'end demand for prostitution' approaches is that they seek to eliminate sex workers' main source of income. Some prostitution abolitionist and other organisations have set up alternative livelihood options, which vary in their scope and in the amount of autonomy given to workers. Programs that increase livelihood options for women can be meaningful. However, anti-trafficking stakeholders should be critical of any 'rehabilitation' measures that attempt to turn sex workers into another pool of available, cheap and easily exploitable labour for manufacturing and production sectors.<sup>124 125</sup>

Although 'end demand for prostitution' approaches are trying to eliminate prostitution, they may end up entrenching women further in sex work and increasing the risk of violence. Less demand or less business can put sex workers in situations where they feel pressured to take on more dangerous clients, work longer hours, lower their rates, or engage in unsafe work practices. Sex workers may feel the need to work alone and/or work in more isolated locations, in order to avoid detection by law enforcement.<sup>126 127 128 129</sup>

*One social worker says, for instance, that she can see how some women take greater risks, get into cars where there is more than one man and accept lower prices. Whereas people in Stockholm say that the demand is always greater than the supply on the street, the people in Malmö say that the clients are so few that women have to accept those they would have refused earlier, in order to make enough money for drugs.<sup>130</sup> - Department of Social Work, University of Gothenburg, Sweden*

*[In Sweden] As a result of the law against procurement, sex workers must lie in order to rent premises, or they have to pay exorbitant rent....The law also makes it difficult for sex workers to cohabit with a partner, since it is illegal to receive any of a sex worker's income.<sup>131</sup> – FIRST, a sex worker ally group, Canada*

## Criminalising sex workers' clients increases police's power over sex workers

Sex workers rights groups have identified police brutality and police harassment as one of the greatest threats of violence against sex workers.<sup>132 133</sup> Even if only one party is criminalised, transactions still have the potential for police harassment and exploitation.

Increasing criminal penalties against sex workers' clients reinforces police's power over sex workers<sup>134</sup> and:

- Entrenches the traditional mistrust between sex workers and law enforcement;
- Does nothing to address abuse and exploitation by law enforcement (e.g. confiscating sex workers' money); and
- Reduces the likelihood that sex workers will inform law enforcement if they need assistance, if they experience violence, or if they encounter cases of trafficking.<sup>135 136 137</sup>





*The ISS [Institute for Security Studies]/SWEAT [Sex Worker Education and Advocacy Taskforce] found that 47% of street-based sex workers had been threatened with violence by the police, 63% had been sword at by a police officer, 12% had been raped by a police officer and nearly a third had been asked for sex in exchange for being released from custody.<sup>138</sup> – Marlise Richter, University of Ghent, Belgium and Dr. Chandr*

*[In Sweden] Instead of the police being a source of protection, sex workers feel hunted by them, and are subjected to invasive searches and questioning. There is also a problem in that they are in an unclear legal position – they can be made to testify in a trial but they neither enjoy the rights of the accused nor of the victim.<sup>139</sup> – Susanne Dodillet and Petra Östergren*

### **Criminalising sex workers' clients increases stigma against women in sex work**

The stigma around sex work can make it harder for women to exit sex work and/or access health services, and labour rights protections. In Sweden, there is general consensus that the Sex Purchase Act has endangered sex workers' health and well-being.<sup>140</sup> Incredibly, the government's 2010 official evaluation argued that the increased stigmatisation and vulnerability of sex workers was a positive result of the Sex Purchase Act; in other words, endangering sex workers helps 'fight' prostitution.

*It's very easy for a prostitute to lose her children now in Sweden. If they know you are prostitute, they have their eyes on you.<sup>141</sup> – Testimony by Swedish sex worker*

*“Both UNAIDS and WHO [World Health Organisation] recognise criminalisation of sex workers and clients facilitates disease transmission.” “When you criminalise prostitution, you add stigma and discrimination, and you add vulnerability”.<sup>142</sup> – Dr. Mariangela Simao, head of the National AIDS Campaign at the Brazilian Ministry of Health*

An Australian study found that legal approaches didn't affect the prevalence or number of sex work businesses or clients, but that it did affect sex workers' working conditions and access to healthcare. The study compared the prevalence of commercial sex and sex workers' access to health promotion services in three Australian cities with different legal approaches to sex work: legalised with licensed and unlicensed brothels (Melbourne), completely criminalised (Perth), and decriminalised (Sydney). Brothels in Perth had the lowest health and safety levels, licensed brothels in Melbourne had higher health and safety levels than unlicensed brothels, and sex workers in Sydney reported the greatest access to health and safety services.<sup>143</sup>

### **Prostitution abolitionist ideas can normalise violence against sex workers**

Abolitionists supposedly do not intend to criminalise women in sex work but it's possible prostitution abolitionist perspectives can lead to the harms they are ostensibly against. Clients with similar attitudes as abolitionists (e.g. women are commodities, it is impossible to 'rape' a prostitute) may be more likely to be violent or abusive than clients that subscribe to a sex workers' rights perspective (e.g. sexual services should be negotiated between a worker and client, sex workers have the right to work safely).

O'Connell Davidson (2003) found that men who saw prostitution as just another sector of work were more likely to be concerned about women trafficked into prostitution. Clients who were most likely to use the services of trafficked persons shared abolitionist ideas that women were commodities and that payment signified ownership, not exchange.<sup>144</sup>



Sex workers rights perspective	Prostitution abolitionist perspective
Violence and abuse of sex workers should not be tolerated	<p><i>"The difference is that when women are subjected to this same kind of violence and sexual exploitation in prostitution, it is viewed as sex and often tolerated as part of the so-called job."<sup>145</sup></i></p> <p><i>"If prostitution is an institution that entitles men to have sexual access to women, the view of prostitutes as unrapeable is an effect of the institution itself rather than a distorting view of the institution."<sup>146</sup></i></p>
Payment in exchange for a negotiated service: <i>"Paying for sexual services does not mean you've paid to do whatever you want to a sex worker."<sup>147</sup></i>	Payment signifies ownership
Sex workers provide services	Sex workers are commodities, objects
Not paying sex worker for agreed-upon services is exploitative	Paying for sex is inherently exploitative



# WHICH CLIENTS ARE IMPACTED BY 'END DEMAND FOR PROSTITUTION' APPROACHES?

The notion of punishing all buyers in commercial sex transactions may hold emotional appeal for those morally opposed to prostitution. Others may be more troubled by the idea of policing or penalising consensual sexual interactions that involve a commercial exchange. Movements against the growing prison-industrial sector have also articulated reasons against using incarceration and criminalisation as the primary solution for social and economic issues.

*Of course, it would be possible to extend the logic of the "penalise the buyer" approach to all forms of sex commerce: a total ban on all forms of sexualised entertainment and pornography involving actors/models; raids on private homes and monitoring of private bank accounts to ensure that people are not using the internet to access sex workers; phone taps to ensure that telephone sex is not being consumed. But most would balk at the civil liberties implications of such an approach.<sup>148</sup> – Dr. Julia O'Connell Davidson*

Research has found that 'John schools'<sup>149</sup> or educational programs to 'rehabilitate' male customers may change attitudes but not behaviour, and have not shown to be a cost-effective strategy for reducing prostitution.<sup>150 151</sup>

*Criminalising the buying of sexual services may represent a means of shoring up existing social norms against sex buying in a country like Sweden, but calls to 'penalise the buyer' seem rather less realistic in settings where prostitute use is widely socially accepted as a normal aspect of male sexual behaviour, and particularly unworkable in settings where more than 70 per cent of male police officers may themselves have experience of buying sex.<sup>152</sup> – Dr. Julia O'Connell Davidson*

Others have expressed strong concerns that 'end demand for prostitution' policies would result in law enforcement targeting men already under increased police surveillance, such as men in working-class, immigrant, and visible minority communities or clients of street-based sex workers.<sup>153 154</sup>

*The possibilities for enforcing any ban were viewed as limited since any measures would operate against the market on the streets, but the more hidden (luxury) prostitution would get off free. This type of criminalisation is a class-based law.<sup>155</sup> – Working Group on the legal regulation of the purchase of sexual services*

*The purchase of sexual services is a typical surveillance crime. If resources are allocated,*



*more crimes can be detected and penalized. According to police officers interviewed in the evaluation, the number of reported could be “multiplied if this crime was a priority in everyday operations”. With this reasoning, one can get the kind of criminality one desires (Christie 2004). The police activity itself produces more and more crimes, which in turn can justify why more resources are needed to combat sex purchase via policing.<sup>156</sup> – Department of Criminology, Stockholm University*

Using incarceration to address a moral opposition to prostitution can have serious long-term effects on people’s access to employment options and social integration. Approaches that call for criminalising clients and other ‘exploiters’ can also end up criminalising women in the sex industry who are not sex workers, e.g. maids, receptionists, business owners.

*“That conviction has ruined my life. I have tried for all kinds of jobs since then and it has always come up.... Sometimes they don’t tell me outright it’s because of my record, but I can tell by the way they look at me.”<sup>157</sup> – a maid who was charged with brothel-keeping (UK)*

*Many respondents agreed that campaigns to harass customers simply move the problem from one area to another. In other jurisdictions, these initiatives have been stopped after accusations that they resulted in family break-ups and divorces. Some participants who had experience with these campaigns agreed that they did not work and that, in most cases, the media are not willing to participate in these campaigns by publishing names of customers.<sup>158</sup>*

*– Working Group on Prostitution, Canada (established by the Federal, Provincial and Territorial Deputy Ministers Responsible for Justice)*

### Are ‘end demand for prostitution’ approaches at least successful at stopping violent or abusive clients?

‘End demand for prostitution’ approaches that seek to punish *all* clients is an ineffective strategy of reducing violence against sex workers, as sex workers still stress that they are unable to get their concerns taken seriously by law enforcement and other authorities.



*End demand for prostitution' approaches can sometimes also end up validating social attitudes that tolerate violence and social hatred against sex workers.*

Sex workers rights groups and their allies have strongly advocated to address violence against sex workers (mainly police violence, but also including violent clients). The 'end demand for prostitution' or criminalisation approaches, however, argue that no distinction should be made between what sex workers define as exploitative or abusive behaviour, and what sex workers define as a consensual, commercial transaction.

***Ironically, even though so much of the so-called training is about violence, the John School in Britain specifically excludes clients who have been reported as violent.<sup>159</sup> – Sabina Walker***

***They [the police] arrived where we were working from, when they got there the client was on top of me, when they got there they said [incomplete statement]... the client was scared already, because they were already here threatening to arrest us, so they said to him "Continue what you have been doing". He did it in front of them watching. Then they beat him up so bad. Then they pulled him down the stairs and they took his money. They told him that he doesn't give them the money, they will arrest him, so he had to take all the money he had in the wallet and gave it to them. They went and left him like that with nothing on him.<sup>160</sup> – female sex worker, South Africa***

End demand for prostitution' approaches can sometimes also end up validating social attitudes that tolerate violence and social hatred against sex workers. Some have expressed concern that 'John school' curricula is used to nurture hatred against sex workers and perpetuate myths about sex workers as violent and diseased.<sup>161 162</sup> There are some sex workers organisations that have published materials and information resources on how clients can act responsibly and ethically (see page 40 for 'Encouraging clients to act responsibly, increasing awareness about sex workers' rights among 'demand' or clients'); however, sex workers organisations have typically not been consulted in the development of John schools.

***Researchers observing Johns Schools in action found that presenters cautioned participants that "drug addicted prostitutes... have stabbed their clients with AIDS infected needles" as a way of "scaring men straight." Consequently program participants were less sympathetic towards women who are sex workers after they had completed the program. These stigmatizing attitudes can fuel violence towards sex workers.<sup>163</sup> – Best Practices Policy Project, a US sex workers rights organisation***



*[T]here is a distinction between arguing for a human rights approach that provides individuals with the tools to fight exploitation and abuse, a vital component in any anti-trafficking strategy, and one that argues for or against the legalization of prostitution.<sup>164</sup>*  
- GAATW

The current focus on criminalising the ‘demand’ in sex work ultimately stems from the prostitution abolitionist movement, not the sex workers’ rights movement or from human rights based anti-trafficking organisations, for that matter.

However, the sex workers movement and human rights-based anti-trafficking organisations have tried to shape the concept of ‘demand’ in a more rights-affirming direction by emphasising that efforts should be directed towards increasing the power of women in labour and migration, rather than punishing or incarcerating consumers.

*GAATW submits that any approach to trafficking cannot be confined to an analysis of the criminalization and legalization of sex work. It must begin from a human rights based approach, sound research and dialogue with all stakeholders, including prostitutes themselves.<sup>165</sup>*

*Addressing these causes of the “supply” will do far more to protect the rights of sex workers and of trafficked persons than ineffective attempts to curb “demand.”<sup>166</sup> - Emilia Casella & Irene Martinetti, Columbia University, School of International and Public Affairs*

## ***Reducing the demand for exploitative labour practices, i.e. improving working conditions for all sex workers***

From a human rights as well as a business perspective, sex workers are invested in stopping trafficking and forced prostitution. Most sex workers would prefer to work in an environment where safe working conditions are the norm; for example, work sites where condoms are the norm, where there are no disputes over payment, and so on. Sex work sites that tolerate abusive clients and/or exploitative practices can threaten sex workers’ efforts to establish safe health and ethical business norms. For more on reducing the demand for exploitative labour practices, please see the next section, *What is the link between trafficking and the demand for exploitative labour practices* (page 47).

# **ARE THERE ANY PRODUCTIVE WAYS OF LOOKING AT THE ‘DEMAND’ FOR SEX WORK THAT RESPECTS SEX WORKERS’ RIGHTS?**



*Kham, an agent who collaborates with five mobile phone operated brothels, explained that it is not newly recruited sex workers who have difficulties adapting to more restrictive working regimes, but women who have previously worked in other venues with better conditions. According to Kham, newly recruited women do not have anything to compare their conditions with and more readily accept tougher working conditions.<sup>167</sup> – Dr. Sverre Molland*

*Some [brothel] operators had their own in-house training but many preferred to send their workers (particularly new ones) to NZPC [New Zealand Prostitutes Collective]. “Poor managers are careful to try and isolate a sex worker – keep them away from places like NZPC where they might find out what is acceptable and what is not. The poor brothel operators suggest that conditions are worse elsewhere. The girls don’t want to leave in case it is so and they can’t get back to working where they were.”<sup>168</sup> – New Zealand NGO*

## ***Sex workers advocating for reducing the demand for unprotected paid sex***

Efforts to reduce the demand for *unprotected* paid sex can help shift demand-based discourses away from a punitive, moralistic focus towards a public-health and human rights oriented approach that reflects sex workers’ expressed priorities. At the time of publication, the UNAIDS Advisory Group on HIV and Sex Work, was drafting a briefing paper calling for reducing the demand for *unprotected* paid sex, as an Annex to the UNAIDS Guidance Note on HIV and Sex Work (2009).

In research with migrant sex workers in London (UK), Dr. Nick Mai<sup>169</sup> pointed that sex workers didn’t talk about their problems in terms of ‘demand’ but by the presence or absence of good working conditions. Sex workers said they hated places where they were asked to do unprotected sex or anal sex, and defined a bad workplace as an establishment that tolerated bad clients. A good workplace was defined as one where protected sex was the norm.

*It all depends on how ‘demand’ is seen: to put it simply, whether it is considered in a neutral, positive, or negative sense. Demand can be seen as neutral, for example in the case of HIV work. A non-judgmental approach to clients, as well as to sex workers, is increasingly recognised as key to successful HIV prevention programmes. The idea of ‘demand’ as something positive is something that is barely ever articulated. If the question of ‘demand’ could be opened up to look at the organisation of desire and the forms of its social control, it could represent an exciting new way to move beyond entrenched and calcified political positions.<sup>170</sup> – Dr. Jo Doezema, University of Sussex*

## ***Encouraging clients to act responsibly, increasing awareness about sex workers’ rights among ‘demand’ or clients***

*[T]he focus on ‘demand’ has not come from sex workers themselves. Sex workers do not, in the main, see their clients as the problem.<sup>171</sup> – Dr. Jo. Doezema, University of Sussex*



Some argue that clients would be better able to assist victims and authorities if they didn't have to fear arrest for commercial sex transactions.<sup>172 173 174</sup> In a feminist participatory action research project by SEPOM (an organisation led by returnee migrant women in Thailand), women shared stories about how clients had helped them to escape a trafficked situation.<sup>175</sup> On the other hand, clients' good intentions to 'save' or 'rescue' women can also lead to invading women's privacy and harassment, if clients rely on what they believe is best for a woman, rather than on what women say they need.

Some sex workers rights organisations and anti-trafficking campaigns have produced materials to encourage clients to recognise sex workers as workers with rights and how to act responsibly, including what to do if clients encounter cases of trafficking:

- Living in Community's *Tools for Customers*: <http://livingincommunity.ca/toolkit/tools-for-customers>
- Chez Stella's *Dear Client*: <http://library.catie.ca/PDF/P42/22575.pdf>
- Prostitution without compulsion or violence, Rules for Punters (including guidelines for identifying forced prostitution): <http://www.verantwortlicherfreier.ch/en/index.html>
- British Columbia Coalition of Experiential Communities' (BCCEC) *For Our Clients*: <http://tradesecretsguide.blogspot.com/search/label/For%20Our%20Clients>

***We all have a responsibility to try to combat human trafficking in the sex industry. Unless we can identify and prosecute exploiters, we will never see safety in the sex industry. – British Columbia Coalition of Experiential Communities, a sex workers rights coalition***

Framing 'demand' as a problem to eradicate can contradict how sex workers gauge how good 'business' is. When sex workers have the autonomy to choose who they see, what they charge and what they provide, higher demand can mean potential for more income, less work and more choice. Some sex workers have identified clients as one factor that determines the quality of a workplace, along with the amount of autonomy sex workers have over 'demand'.<sup>176</sup>

***Most interviewees cited a stable workplace with regular clients as key to maintaining 'good' work conditions and improving safety. The majority of participants agreed that working with others – was crucial in dealing with problems that arise at work.<sup>177</sup> – x:talk, a migrant sex workers organisation, UK***

It would be interesting to analyse how clients use the information they gain from various awareness raising initiatives. The racialised imagery and stereotypes used in 'end demand for prostitution' campaigns could potentially benefit local sex workers to the detriment of migrant sex workers. Dr. Julia O'Connell Davidson found that some sex workers' clients attempted to use a crude 'fair trade' approach that relied on more on racial stereotypes about migrant women's poverty and vulnerability:<sup>178</sup> Women *perceived* to be locals were seen as 'fair trade' and women who were *perceived* to be migrant sex workers were seen as 'unfair trade'. This, despite the fact that many migrant sex workers are not trafficked, and that many sex workers who are perceived to be migrants may in fact, be citizens or 'locals'. In other contexts, women perceived to be migrant sex workers were thought to be more flexible and cheaper, although this didn't necessarily make them more desirable to clients.<sup>179 180</sup>

***I prefer Thai sex workers because I feel more comfortable with them, and I don't feel proud of myself if I go with migrant sex workers. Socially it is looked down on to be with Burmese sex workers because they work in particular types of establishment which are lower, and friends look down on it. In this male society, the place you visit makes you look good or not. In places where migrants work, the conditions are poor. If you can go to a massage parlour, it makes you look good. Having a university student is good too.<sup>181</sup> – Thai government officer, public relations, single, aged 27***





# HOW WOULD DECRIMINALISING SEX WORK IMPACT ANTI- TRAFFICKING EFFORTS AND 'DEMAND'?

GAATW has always supported sex workers' rights and valued the role sex workers rights groups have in the anti-trafficking movement. Given the diverse contexts in which our members operate, GAATW has not promoted any specific legislative approaches to sex work, but GAATW's membership does agree that:

- Sex workers have the right to organize;
- Sex workers have the right to safe working conditions;
- Violence against women in sex work is a grave human rights violation;
- Trafficking is distinct from sex work; and
- Anti-trafficking policies must factor in sex workers' concerns and knowledge.

The decriminalisation of sex work is considered an important goal for many sex workers rights organisations, including a number of sex workers rights groups in GAATW's membership.<sup>182</sup> As demand-based approaches typically mean criminalising the clients of sex workers, this section will look at what impact *decriminalising* sex work might have on anti-trafficking efforts and on 'demand'.

## ***What does decriminalising sex work mean?***

Decriminalisation of sex work is the removal of criminal penalties around *consensual adult* sex work only; criminal penalties for forced prostitution, trafficking and underage prostitution would remain.<sup>183</sup>

For example, in Canada, it is not illegal to buy or sell sex, but it is illegal to:<sup>185</sup>

- Own or occupy a 'bawdy house' (a place regularly used for sex work);
- Live on the avails of prostitution (e.g. earnings);
- Talk in a public place to arrange a commercial sex transaction; or
- Assist anyone to work in sex work (e.g. security, receptionists, accountants, etc.).

Based on the above, decriminalising prostitution in Canada would mean that a sex worker could work with other sex workers in a shared apartment, keep her earnings, and take time to negotiate with clients.<sup>186</sup> Removing criminal penalties around *consensual* prostitution would also mean that a sex worker could call the police if she was abused without fear that she would be arrested for working in sex work.

Decriminalisation should not be confused with legalisation.<sup>187</sup> Decriminalisation focuses more on *persons* involved in the sex



industry, whereas legalisation is associated more with structuring the *industry* itself.

Under <b>decriminalisation</b> , criminal penalties associated with <i>consensual</i> prostitution are removed	Under <b>legalisation</b> , laws are added, such as regulations concerning worker's behaviour, sex work locations (e.g. licensing requirements)
Most sex workers rights groups argue that a decriminalised approach would minimise the harms associated with sex work (e.g. violence, exploitation) and remove state interference from consensual sexual exchanges. Under a decriminalised system, women's employment opportunities would not be affected by previous involvement in sex work and sex workers would not work under police scrutiny (as would be the case if clients were criminalised).	Many sex workers rights groups do not want a legalised approach, which would still render some forms of <i>consensual</i> sex work illegal and some sex workers at risk of exploitation (e.g. women in unlicensed establishments). Under a legalised system, women would need to register their work publicly which would be a loss of anonymity.

***Arguing for decriminalisation of sex work does not have to mean endorsement of sex work – it shows awareness of the dangers of the criminal law – criminalising won't eradicate the industry, nor alter the set of power relations that may be associated with it. It recognises that the laws that criminalise sex work punish women and particularly women living in poverty, and women of colour most severely and create a dangerous environment for working and living.<sup>188</sup> – World AIDS Campaign***

## Who endorses decriminalisation?

UN bodies, researchers, sex workers rights groups, and trade unions have argued that a decriminalisation approach is a practical strategy that can aid anti-trafficking efforts, boost HIV/AIDS prevention efforts, reduce violence against sex workers, and strengthen the rights of sex workers.<sup>189</sup>

***With regard to adult sex work that involves no victimization, criminal law should be reviewed with the aim of decriminalizing, then legally regulating occupational health and safety conditions to protect sex workers and their clients, including support for safe sex during sex work.<sup>190</sup> – 21(c), Guideline 4, Office of the UN High Commissioner for Human Rights and the Joint UN Programme on HIV/AIDS.***

***Decriminalisation, along with the institution of appropriate occupational health and safety regulations, safeguards the rights of sex workers.<sup>191</sup> – Anand Grover, UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.***



New Zealand is the most visible example of a country that has decriminalised its laws around prostitution. In 2003, the New Zealand Parliament voted out or removed laws against:

- brothel keeping (5 years imprisonment),
- living on the earnings from sex work (5 years imprisonment),
- procuring (e.g. operating a sex work business, transporting a sex worker to an appointment) (5 years imprisonment), and
- soliciting or offering sexual services (\$200 fine).<sup>192</sup>

A 2008 review of New Zealand's decriminalisation policy 5 years after it was first implemented presents important evidence of the benefits (and limitations) of a decriminalisation approach.<sup>193</sup> Successes of New Zealand's 2003 Prostitution Reform Act included:

- No increase in the number of people entering sex work and enforcement of laws against *underage* prostitution;
- Improved working conditions: women were freer to negotiate safer sex, refuse clients or sexual practices, choose safe working locations, and work with other sex workers to increase safety. Under the policy, fines and fees imposed by employers decreased.
- Increased feelings of safety: women felt more able to report abuse to police, police attitudes towards sex workers improved, and safe sex was more widely promoted.
- More efficient use of public resources.
- Removing a barrier to exiting the sex work industry: Sex workers are no longer at risk of getting a criminal record for working in the sex industry.
- Safeguarding sex workers' rights, such as:
  - The right for children under 18 not to be in sex work;
  - The right of adults not to be forced into sex work;
  - The right to refuse clients or sexual practices;
  - The right not to be subject to exploitative, degrading employment practices.

***The enactment of the PRA (Prostitution Reform Act) has empowered sex workers by removing the taint of criminality from their occupation, and part of that empowerment is to take control over their employment relationships.***<sup>194</sup> – New Zealand Government, Ministry of Justice

## ***How would decriminalising sex work impact anti-trafficking efforts?***

Decriminalisation may help prevent misuse of anti-trafficking laws to punish women in sex work. Laws targeting 'demand' in sex work can also lead to women in the sex industry being charged for trafficking:



*When I became pregnant of son I decided to open my own flat. Everything went ok for 5 years. I used to get between £ 3000 and £ 5000 per week. At first I worked with English girls but I then started recruiting foreigners because clients find them sexier... So I put an advert on a newspaper in Spain, through a friend, and I got lots of Brazilian, Italian and Spanish girls replying. I used to pay for the ticket and then they would give me □ of what they earned until they paid back the ticket, then I would get the usual, which was much less. After 6 weeks I was charged with trafficking. I spent 19 months in jail, my house was confiscated, my business, my savings, my jewels, they took everything...and now I am also facing deportation...<sup>195</sup>*

Decriminalising sex work has the potential to assist anti-trafficking efforts by fostering cooperation between police and sex workers. Sex workers would be more enabled to practice their rights and feel safer about reporting concerns to police without fear of arrest or harassment.

*In recent interviews, sex workers and those who advocate on their behalf in the capital told the Post they would appreciate the chance to work with law enforcement officers and NGOs, but they said their efforts to engage both groups in the past had not been well received. “We’ve approached a number of NGOs running anti-trafficking and rehabilitation programmes about incorporating sex workers into the conversation, as well as law enforcement, but don’t meet with much interest,” said Ly Pisey, part of the support staff at the Women’s Network for Unity (WNU) [a sex worker-led organisation].<sup>196</sup> – ‘Sex workers seek policy partners’, The Phnom Penh Post*

*There is no more valid group of stakeholders in this debate than we who work in the sex industry: we will bear the damaging consequences of ill-informed policy, however well-intentioned....If this is not the case, the strategy builds in disrespect, exclusion and unequal treatment of sex workers at a fundamental policy level.<sup>197</sup> – International Union of Sex Workers*

Anti-trafficking discussions would benefit from more clarity and precision by differentiating between trafficking and prostitution. A 5 year review of New Zealand’s 2003 Prostitution Reform Act found little link between sex work and trafficking in New Zealand, with 3.9% of sex workers in New Zealand reporting feeling forced into sex work.<sup>198</sup> Obviously, any percentage of women forced into prostitution demands a response; however, gaining an accurate and clear scope of the problem helps develop effective, proportionate solutions.

*[M]ost police officers are happy that prostitution is legal because it makes it easier to crack down on serious crime, according to Rudat, who is also a detective-commander in the Berlin police force. “In Germany we chose a way so that we legalise prostitution, but at the same time, we watch the Red Light districts closely”, she says. “It is better when you can see the prostitutes, the pimps, and their clients. When prostitution is forbidden, you can’t see these things. And so the danger of crimes associated with prostitution will be higher.”<sup>199</sup>*

## **How would decriminalising sex work impact ‘demand’ for commercial sex?**

There hasn’t been much analysis or research to date on whether decriminalisation increases or decreases the ‘demand’ for commercial sex. New Zealand’s 5 year review of the 2003 Prostitution Reform Act only measured the number of sex workers; the number of clients is not mentioned.

However, there is evidence that decriminalisation of sex work can increase women’s power to manage ‘demand’. Sex workers are more free to negotiate conditions with clients, more able to report violent clients to the police, and more able to refuse a client or refuse providing particular services.<sup>200</sup>



*[F]rom the sex workers' rights perspective it is not men's demand for women's services or the existence of a market for commercial sex that leaves room for abuse and exploitation such as in the case of 'trafficking', but rather the lack of protection and labour rights for workers in the sex industry.<sup>201</sup> – Dr. Rutvica Andrijasevic*

## **How would decriminalising sex work impact efforts to address violence against women?**

Decriminalisation could directly impact levels of police violence against sex workers by changing the amount of power police yield over sex workers. Numerous sex workers groups have argued that police violence is an urgent concern.<sup>203</sup> The New Zealand Prostitutes Collective (NZPC) noted that in “the bad old days” when sex work was criminalised:

- *Police enforced the law erratically, and with enthusiasm – and sometimes took their clothes off.*
- *Operators were licensed the Massage Parlours Act and colluded with the Police in this system to keep sex workers “under control”.*
- *Laws usually targeted sex workers rather than venue operators who “didn't know” what went on behind the closed doors of rooms in ‘massage’ parlours.*
- *Employment malpractices, such as coercive techniques, bonds and fines, breached human rights of sex workers, harming them in various ways – financially, physically, sexually and emotionally.*
- *Sex workers were still liable to pay tax and other government levies, but there was a chance the Proceeds of Crimes Act would enable the State to seize their assets.<sup>204</sup>*

Police violence is also a concern under *legalised* contexts (i.e. where some sex workers may be registered and other sex workers may not be). In Queensland, Australia (which has both legal and illegal sex work), workers in the illegal sector were much more likely to experience violence and harassment by the police, and were much less likely to report violence to the police.<sup>205</sup>

New Zealand's 2003 Prostitution Reform Act also resulted in better relations between sex workers and the police. Sex workers, particularly street-based sex workers, now felt they could contact the police for assistance when violence did occur.<sup>206</sup>

*Decriminalisation has removed the fear of being prosecuted previously felt by many sex workers (particularly the more visible street-based sex workers). The result is that sex workers now feel more able to work during the day and in well lit, safer places. Some street-based sex workers also feel Police now take reports of violence against sex workers more seriously.<sup>207</sup> – New Zealand Government, Ministry of Justice*

*Instead of targeting clients indiscriminately, the violence women report should be acted on, regardless of their occupation. An increase in the shamefully low conviction for reported rape has to be a key priority.<sup>208</sup> – English Collective of Prostitutes*



# WHAT IS THE LINK BETWEEN TRAFFICKING AND THE DEMAND FOR EXPLOITATIVE LABOUR PRACTICES?



# WHAT ARE EXPLOITATIVE LABOUR PRACTICES?

The previous section looked at a demand-based approach specific to the sex work sector, namely the call to eliminate all forms of sex work as a strategy to reduce trafficking. Calling for the elimination of an entire sector or the 'demand' for an entire sector is not a strategy that has been promoted outside of prostitution abolitionist circles. Broader anti-trafficking and labour rights discussions (that include but is not limited to sex work) generally talk about the types of 'demand' that fosters or enables exploitation. As mentioned before (see page 13, *What do we mean by the word 'demand' in the anti-trafficking context?*), this can include<sup>209 210 211 212</sup>:

- Employers' and businesses' demand for forced labour;
- Third parties who recruit and traffic persons for forced labour or services; and
- Consumers' demand for cheap, available products and/or services (including those that may be manufactured by exploited labour).

This section analyses the literature on how the demand for exploitative labour practices affects trafficking and anti-trafficking efforts. This section includes references to various work sectors, including but not limited to, sex work. In fact, re-directing efforts to reduce the demand for exploitative labour practices in sex work (as in other sectors) may provide a more productive, rights-based approach to demand than the 'end demand for prostitution' approaches currently touted by prostitution abolitionists.

According to the International Labour Organisation (ILO), trafficking operations range from the highly complex to small cottage industries, and extend from the local to the global throughout a range of economic sectors. Traffickers generally respond to market demand for cheap and easily disposable labour, especially when industries are labour-intensive, and rely on temporary work and cyclical cycles.<sup>213</sup>

It may be more productive to analyse the broader demand for exploitative labour practices, instead of focusing solely on the demand for *trafficked* labour. The category of exploitative labour practices includes trafficked labour, as well as undocumented migrant labour, forced labour, unprotected workers in the informal economy, and so on. In some contexts, exploitation of labour may operate well within a country's laws.<sup>214 215</sup> A broader focus on the demand for exploitative labour practices may be able to assist more groups experiencing exploitation (including those that don't fit the technical definition of a trafficked person), as well as maintaining the focus on tackling exploitation rather than the specific process through which exploitation occurs (e.g. trafficking).

In looking at what makes a worker 'exploitable', the literature has referred to labour that is:

- Low cost - including non-payment or underpayment;
- Easy to control - including keeping workers from leaving abusive situations; and
- Unprotected - social attitudes that normalise or justify discrimination, work that is not included under labour



protection laws, and systemic labour exploitation.<sup>216</sup>  
217 218 219

Indicators of exploitation can include: being forced to work, preventing workers from leaving their job, controlling worker's movements, retaining workers' identification documents, violence, non-payment or underpayment, long working hours, not providing days off, and not providing written contracts.<sup>220</sup>

In some instances, the most desirable labour may not be the most productive but simply the most controllable. Globalised economic processes allow for more precarious, temporary or flexible employment practices. In unregulated sectors, leaving abusive employers may be one of the only recourses available to legally unprotected workers.<sup>221</sup> In exploitative or undesirable work situations, the ability to retain workers (e.g. through force, through coercion) becomes more urgent.<sup>222 223</sup>

*It is a misperception that child labour is cheap labour, however: children are generally less productive than adults. Children are simply easier to abuse: they are less assertive and less able to claim their rights than adults; and they can be made to work longer hours with less food, poor accommodation and no benefits.<sup>224</sup>*

*Many states have enacted "stripped down" versions of labour regulations relating to temporary workers to ensure that employers have a flexible labour pool as a buffer for seasonal or other cyclic fluctuations in labour demand.<sup>225</sup> – GAATW*

*A broader focus on the demand for exploitative labour practices may be able to assist more groups experiencing exploitation (including those that don't fit the technical definition of a trafficked person), as well as maintaining the focus on tackling exploitation rather than the specific process through which exploitation occurs (e.g. trafficking)*





# WHY IS THERE A DEMAND FOR EXPLOITATIVE LABOUR PRACTICES?

*Lack of decent jobs pushes migrant workers to look for opportunities outside their home countries. When they arrive, in the countries of destination, they are often confronted by xenophobia from those who fear that the few jobs available will be taken by new immigrants...At the same time, governments desire to boost their economies to be more competitive, by banking on decreasing labour costs and importing cheap and more compliant labour. These dynamics mark the contemporary globalized labour market and are major contributory factors to the growth of a phenomenon we can only describe as modern day slavery, not in its traditional forms, but evident in supply chains of products and services we, as consumers, all use.<sup>226</sup> – Sharan Burrow, International Trade Union Confederation and Aidan Mc Quade, Anti-Slavery International*

There are two contexts within which to understand the demand for exploitative labour practices: the **migration of work** (which this section analyses), and the **migration of workers** (see the next section, *What makes migrant labour exploitable labour?*, page 55).

Globalisation and trade liberalisation policies have caused profound changes in the international division and global organization of labour. In the current globalized economy, relocating or outsourcing to other countries with lower wages, poor working conditions, and poorly regulated human rights standards is one strategy companies use to meet demand for high turnover of consumer products, lower overheads and, consequently, higher profit margins.

## *Global economic competitiveness*

*There is a demand for the cheapest and most flexible labour, certainly where profit margins are tight, staffing costs form an important part of the production costs and the work requires no expertise.<sup>227</sup> - C.E. Dettmeijer-Vermeulen, Dutch National Rapporteur on Trafficking in Human Beings*

Some have argued that the demand for exploitative labour practices is the result of increasingly competitive economic markets that prioritise increasing profit margins over stakeholders' human rights responsibilities.<sup>228 229</sup> The demand for exploitative labour practices can stem from outsourcing to reduce labour costs while increasing productivity, the privatisation of recruitment agencies, reductions in public spending, integrated and poorly regulated global supply chains and unmonitored work recruitment schemes.<sup>230</sup>

For example, the garment industry has undergone major restructuring over the past two decades. While smaller manufacturers would previously design garments and produce the orders, the apparel industry in the current globalized economy is dominated by giant retailers who design and



contract out apparel production to manufacturing contractors around the world. These retailers dictate the price of production and turnaround time, and are constantly looking for opportunities to have their clothes made at a cheaper cost. Contractors around the world are forced to compete over who will accept the poorest wages and working conditions and allow the lowest labour, health and safety, human rights and supply chain standards.<sup>231</sup>

**A recent study on exploitation in Chinese export factories found that the secret to winning contracts in an environment of intense competition among supplier companies was to offer the lowest price. Reducing production costs would require squeezing Chinese workers (most of whom were poor, rural migrants) by reducing wages to the bare minimum. Since governments set minimum wage levels at the lowest possible level in order to attract foreign investment, migrant workers must work more than forty hours a week if they are to receive wages beyond the amount needed for survival, saving or sharing with family members. Most workers are therefore 'willing' to work more than forty hours a week, despite the fact that most of them are paid for overtime at the basic rate. Put simply, "Suppliers still have places where they can cut fat, but the easiest fat to cut is workers' wages."<sup>232</sup>**

*There are two contexts within which to understand the demand for exploitative labour practices: the migration of work (which this section analyses), and the migration of workers (see next section).*

Exploitation can also occur at an institutional and systemic level, as in the case of Indonesia's labour export policy.

*Since the 1990s, the Indonesian government has set Hong Kong as one of the placement states for Indonesian Migrant Workers (IMW). The number of IMW working in Hong Kong has increased every year. IMW also have to compete for work with migrant workers from the Philippines, Thailand, Sri Lanka, and other countries... This has led to the establishment of various IMW mass organisations in Hong Kong to fight for migrant workers' rights, including ATKI. After the organisation was created, ATKI Hong Kong carried out a campaign focused on underpayment of migrant workers. A 2005 survey of 2,772 IMW revealed the extent of the problem. 100% of the IMW surveyed reported having their salary deducted for 7 (seven) months or HK \$21,000. Job competition with migrant workers from other countries also negatively impacted IMW. Agencies promoted IMW to Hong Kong employers as a cheaper solution for their domestic work needs. Like a commodity, Indonesian migrant workers represented good quality at the lowest price.<sup>233</sup> – Asosiasi Tenaga Kerja Indonesia or the Association of Indonesian Migrant Workers (ATKI)*



Economic competitiveness may be a reason, but not a justification, for the use of exploitative labour practices. Employers' use of exploitative labour practices can be seen as shaping local and global markets, as much as responding to them. CFMEU (Construction, Forestry, Mining, Energy Union), an Australian trade union, argues that their labour rights advocacy is as much an effort to protect ethical employers as it is about protecting workers.<sup>234</sup> They observe that exploitative employers can drive ethical employers out of some sectors as they can no longer compete.

***The trafficking of people to satisfy the competitive-edge need of employers has not been sufficiently researched and the proportion of trafficked workers to legal migrants, or even national workers, is not clear.*<sup>235</sup> – International Labour Organisation**

Decreased demand in certain sectors can also increase the risk of trafficking by limiting women's livelihood options.

***[Export Processing Zones or] EPZs can also create and destroy women's employment opportunities, a factor that has been identified as contributing to trafficking...In EPZs, business is export-oriented so a decrease in demand (e.g. due to change in consumer preference or increased competition) or an economic crisis can result in massive layoffs of female workers. For example, in Nicaragua's maquiladoras, women represented 85 percent of those laid off in the 2008 crisis.*<sup>236</sup> – GAATW**

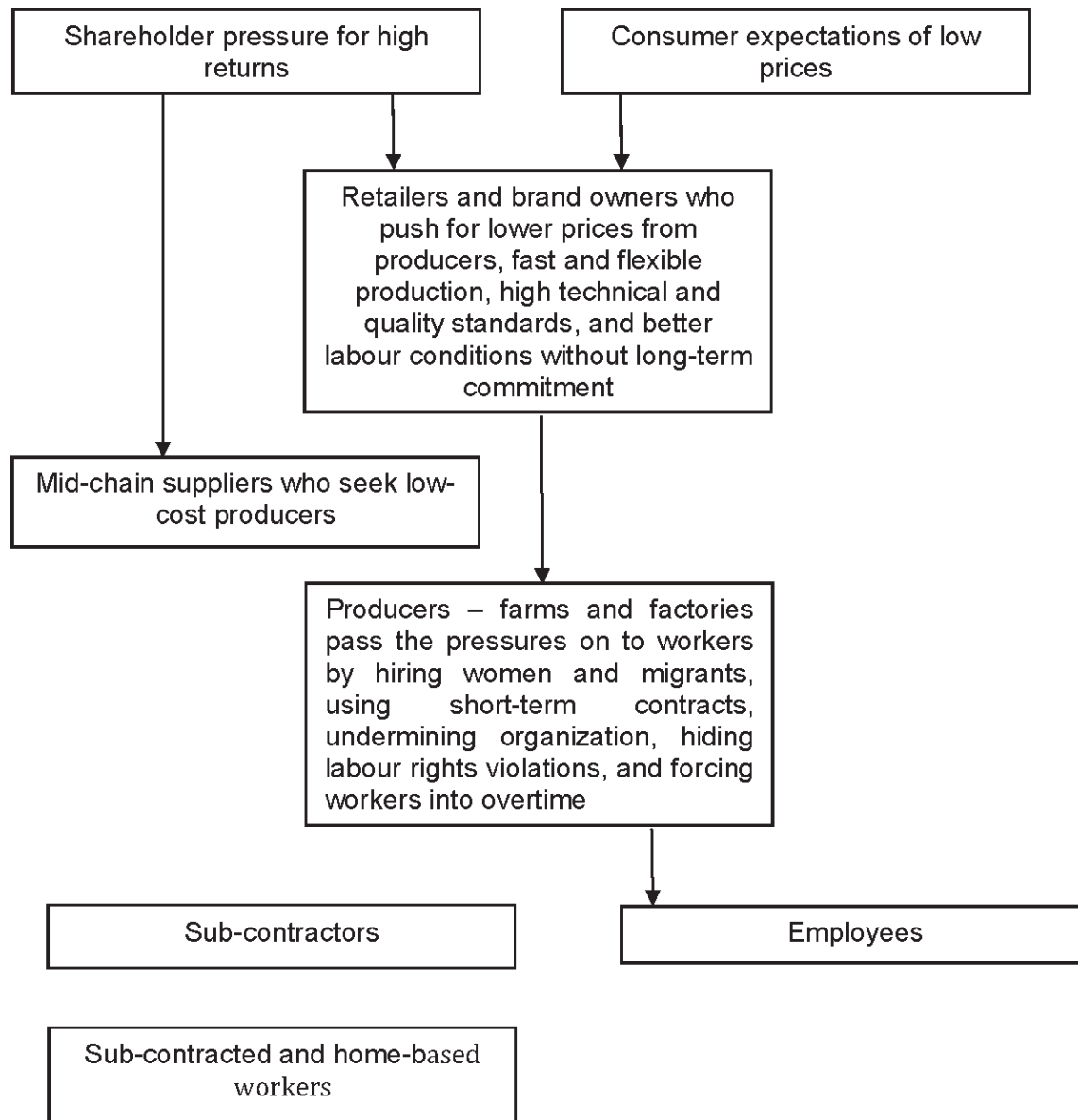
## Supply chain pressures

Unmonitored supply chain practices have the potential to enable human trafficking by suppliers or business partners, including sub-contractors, labour brokers or private employment agencies.

The migration of work means that a supply chain can include dozens of firms in the process of making and delivering a single product. For example, Li & Fund, a Hong-Kong based, mid-chain garment supplier to major European and US retailers and brands may source fibre from Korea, dye and weave it in Taiwan, buy zips from China, and send it all to Thailand for assembly. Given the global reach of such networks and the constant drive to lower prices in order to remain competitive, contracts are easily broken if a better deal can be found. Demand from company shareholders to deliver short-term returns and demand from consumers to have year-round availability of produce at value prices results in pressures on cost, speed and quality without the commitment of long-term supplier relationships. Employers pass on the pressures of such demand through the supply chain by:

- recruiting women and migrants who have few alternatives to fall back on and are, consequently, more compliant;
- hiring workers on temporary contracts or sub-contractors, setting wages, piece-rates and production targets at levels that force workers to work overtime in order to survive;
- intimidating unions and harassing workers; and
- falsifying records when pressured to meet labour standards.<sup>237</sup>

Supply chain pressures in the garment industries<sup>238</sup>



A recent report on the working conditions of electronic sector workers found that outsourcing reduces the amount of capital investment in production sites and results in higher flexibility for employers, as companies can respond more quickly to market demands and slumps when they are not tied to production sites through property ownership and permanent staff contracts. These short-term contracts make it easier to “hire and fire” because as “demand grows, they can commission a new production line; if demand slumps, they can simply close the line.” Female workers, in particular, live in a constant atmosphere of insecurity and fear because they are often denied maternity benefits and do not have their contracts renewed if management discovers they are pregnant.<sup>239</sup>



*Discrimination can also entrench social attitudes that make exploitation 'normal', tolerable, inevitable or not exploitation at all.*

## **Discrimination normalising or 'invisibilising' exploitation**

Discrimination can be both a cause and a consequence of exploitation. Discrimination is one process that can make a group of workers easier to control and use than others.<sup>240</sup> The demand for exploitative labour practices can be normalised if enough people assume that there is and should be a large supply of workers that is easy to use and easy to dispose of in order to benefit another group of consumers.

*Laws and policies that institutionalize discrimination can also shape demand, as can a failure on the part of the State to challenge discriminatory social attitudes, practices and beliefs effectively.<sup>241</sup> – UN Office of the High Commissioner for Human Rights*

*[I]t is depressing to observe how malleable most people are in terms of their morality in any market and how quickly they can adjust themselves to practices that they would previously have considered exploitative, providing no one stops them and others appear to be doing the same thing. Thus, for example, in our research on employer demand for migrant domestic workers, we interviewed European expatriates in Thailand who, back home in Europe, would never have dreamt of asking a domestic worker to work a 14 or 15 hour day, six or seven days a week, for a pittance, but who were quite happy to impose these employment conditions on domestic workers in Bangkok on grounds that local employers do so, and the authorities do not intervene to prevent it.<sup>242</sup> – Dr. Julia O'Connell Davidson*

Discrimination can also entrench social attitudes that make exploitation 'normal', tolerable, inevitable or not exploitation at all. Research on employers of domestic workers, found that discriminatory attitudes changed exploitative practices into 'reasonable' requests, by relying on prejudicial attitudes about domestic workers' capabilities.

*Working as a domestic worker or as an au pair in a private household can be transformed from a grim necessity to a golden opportunity when it is undertaken by a hard pressed migrant with limited opportunities.<sup>243</sup> – Dr. Bridget Anderson*

*Many employers reflect paternalistic attitudes towards domestic workers, seeking to 'protect' them from bad influences by not allowing them to go outside and communicate with others as well as 'protecting' their original documents by holding onto them for the worker so they wouldn't be 'lost'.<sup>244</sup>*



In some instances, the demand for *exploitable* labour is considered synonymous with the demand for *migrant* labour. However, it's important to remember that migrant labour in itself isn't inherently exploitable, but that there are certain social and political processes that can turn migrant labour into labour that can be exploited. For instance, most countries do encourage immigration of professional and wealthy migrants but resist filling the demand for working-class migrant labour.

*Laws and policies play a significant role in how employers treat migrant workers.*<sup>245</sup>

*[T]hree related factors are key to explaining the exploitative conditions experienced by many migrant domestic and sex workers: (a) The unregulated nature of the labour market segments in which they work; (b) the abundant supply of exploitable labour and (c) the power and malleability of social norms regulating the behaviour of employers and clients.*<sup>246</sup> – Dr. Bridget Anderson and Dr. Julia O'Connell Davidson

In some industrialised countries, the growing number of women working outside the home and growing aged populations results in a greater need for childcare and eldercare services. When these needs aren't accommodated by national childcare programs or the provision of affordable care services, families are left with employing a private worker to fill the gap.

*The demand for women migrant workers, in particular those going into domestic service, is often high and sustained, since they represent a form of "replacement mobility" for female nationals who are freed from their household and care responsibilities to take up other – better – positions in the labour market.*<sup>247</sup> – International Labour Organisation

A common refrain is that migrant workers are willing to take jobs that citizens are reluctant to do<sup>248 249</sup>, although this is more likely due to working conditions and workers' power, rather than taboos about specific jobs.

*Of course, when employers claim that certain marginalized groups are the only people available to do 'unskilled' work this may well be related to employment wages and conditions: were the salary for this 'unskilled' work raised to £2000 a week employers might find the availability of non-migrants increases.*<sup>250</sup> – Dr. Bridget Anderson

## WHY IS THE DEMAND FOR EXPLOITABLE LABOUR MET BY MIGRANT LABOUR?



***Economic growth tends to result in increased demand for cheap migrant labour, as the domestic workforce is able to move away from low-skilled, low-wage employment.<sup>251</sup> – International Labour Organisation***

In some sectors – such as sex work, domestic work, construction, hospitality – the demand for labour is often based on preferences for a particular gender, race, age, class, nationality, religion, caste or appearance.<sup>252 253</sup>

<sup>254</sup> Employers may believe that a person's race, gender or another identifying characteristic signifies something about their qualities as a worker (e.g. temperament, ethic, aptitude, etc.). For some employers, an employee's physical characteristics may also be part of the 'image' employers would like to project.<sup>255 256</sup>

***Despite the relatively high wages of Polish workers in Berlin, they still account for a significant proportion of domestic workers. Filipina workers are the most 'popular' in Athens, and they are also the most expensive.<sup>257</sup> – Dr. Bridget Anderson***

## **Contradiction between growing labour demands and restrictive immigration policies**

***How is it that migrants, among the most highly controlled groups of the population, provide such de-regulated labour?<sup>258</sup> – Dr. Bridget Anderson***

It is increasingly acknowledged that the risk of trafficking increases when the demand for labour is undermined by migration policies that limit working-class migration.<sup>259 260 261</sup> In this context, traffickers can become one of the only avenues left to reconcile the demands of both employers and workers within restrictive migration systems.<sup>262 263 264</sup>

***Restrictive immigration laws and policies are obstacles to a large supply of human power from source countries to meet the high demand for cheap labour in host countries. This helps generate a lucrative market for traffickers.<sup>265</sup> – Ms Joy Ezeilo, UN Special Rapporteur on Trafficking in Persons, Especially Women and Children***

As Ruhs and Anderson notes, "a key consideration in assessment of employer demand for migrant workers is that 'what employers want' (i.e. the skills, competencies and attributes required of employees) is critically influenced by what employers 'think they can get' from the available pools of labour".<sup>266</sup>

Employers may prefer migrants because of their lower expectations about wages and employment conditions, or because the employment restrictions associated with particular types of immigration status may make migrants easier to retain at lower wages and poor employment conditions. As already noted, companies with a demand for a flexible workforce may make use of employment agencies to help find suitable workers.<sup>267</sup>

In other cases, governments may institute restrictive migration measures in order to fuel and exploit the demand for migrant labour. For instance, the Indonesian government has implemented a labour export policy that requires prospective migrant workers to pay excessive fees to labour migration recruitment agencies, and pay fees for travelling through an airport terminal specifically for working-class migrant workers.<sup>268 269</sup> Workers who make independent travel arrangements (outside of 'Terminal 4') and access employment opportunities without using an intermediary are deemed to be 'illegal' workers by the Indonesian government.

***[T]he government seeks to increase business opportunities for employment services by eliminating barriers to sending Indonesian workers abroad. In other words, the government is deliberately trying to double the workers sent abroad to obtain economic benefits from the remittances sent by migrant workers to their families. This framework encouraged the development of the National Agency for the Placement and Protection of Indonesian Workers (BNP2TKI). The agency's function was to implement the***



**government's labour export policy by boosting the number of Indonesians sent abroad and increasing state revenue. The agency has been weak in improving labour protection for migrants. – Asosiasi Tenaga Kerja Indonesia or Association of Indonesian Migrant Workers (ATKI)**

## ***Exploiting and controlling workers through migrant workers' fears of being 'illegal'***

In the absence of a migration framework that can accurately assess the demands of the labour market, undocumented migrant workers help meet the demand for labour as well as meeting migrants' own demands for a livelihood and income. The process of labelling undocumented migrant workers as 'illegal' (i.e. without papers) sustains migrants' fears (about arrest, detention, deportation) and makes it easier to control workers. Although working-class, undocumented migrant workers are at risk of exploitation, social perceptions of workers as 'illegal' re-position migrant workers as 'threats' and the dominant society as the potential victim (rather than the beneficiary of cheap labour). Through this process, the crime of not having sufficient paperwork is prioritised over employers' crime of exploitation or abuse.

***Employing temporary undocumented workers maximizes control and profit....'not only do illegalised workers reap greater profits for employers, they also enable the national state to perform its role as the protector of the citizenry.'***<sup>270</sup> – Dr. Nandita Sharma

## ***Discrimination against migrants***

***Demand in the context of trafficking is often shaped by discriminatory attitudes (including cultural attitudes).***<sup>271</sup> – UN Office of the High Commissioner for Human Rights

Discriminatory attitudes towards migrants can help justify, normalise or 'invisibilise' exploitation of migrant labour. Although there may be a great demand for migrant labour in destination countries, this demand can be re-framed by dominant society as either intrusive ('flood', 'stealing our jobs') or as charity (normalising exploitation by comparing it favourably to workers' countries of origin). Destination countries' responsibilities to address exploitation of foreign labour can be dismissed by relying on social ideas of migrant workers as opportunistic criminals rather than exploited workers. The fact that a few exploited workers may receive some assistance by being acknowledged as trafficked may not address the much larger numbers of workers who have been exploited but not technically trafficked.<sup>272</sup>

The link between discrimination of migrants and the demand for exploitative labour practices is generally acknowledged, but it's still unclear whether discriminatory attitudes towards migrants themselves increase the demand for exploitative labour practices, or whether broader discriminatory attitudes towards migrants simply allow employers more freedom to exploit migrant workers without fear of legal or social penalties.

***The reproduction of gendered and racialised roles that is part of the function of domestic work means that domestic workers are particularly vulnerable to racist and sexist violence....It is also unrecognised, because it is taking place in the private household, a protected arena for the family – but not for the worker. Racist and sexual violence that would never be tolerated in the workplace passes unremarked in the home.***<sup>273</sup> – Dr. Bridget Anderson

Discriminatory attitudes can also entrench ideas that migrants exist only as workers, not human beings with the right to family, and the right to a private life. In an analysis of a government program for temporary migrant workers on strawberry farms in Spain, GAATW found that eligible applicants were restricted to mothers and women who were married, divorced, or widowed. Although these requirements governing women's marital status violated Spanish labour laws on non-discrimination, they were considered key to the government's aim





of limiting migration. It was believed that recruiting mothers and women who were married provided a guarantee that women would not pursue social mobility in Spain.<sup>274</sup>

At a systemic level, discrimination can be entrenched in state-sponsored and legalised forms of exploitation. In the United Arab Emirates (UAE), a sponsorship (*kafala*) system impacts all migrant labour as each foreign worker must have a *kafil*, or sponsor, who holds citizenship of that state. Here, the *kafil* provides the worker with an entry job and visa and is responsible for notifying any changes in the worker's employment or residence to the authorities. As such, the *kafil* assumes control of the worker's freedom of movement and labour. Recently, Human Rights Watch<sup>275</sup> documented the situation of workers involved in the construction of Saadiyat Island, a \$27 billion development, who are caught in a cycle of abuse and human rights violations. These workers believed they had to remain in their jobs or be deported and banned from returning to the UAE for one year if they chose to quit. Additionally, as a result of the 2008 recession, some companies engaged in cost-cutting strategies that included cutting workers' daily meals from three to one, and adding as much as 40% to the population of their labour camps without increasing space for accommodation.

Another example is the Temporary Foreign Worker Program (TFWP) in Canada wherein some foreign workers in low-skilled occupations may be bound by law to live and work on the property of their employer. Canada's Live-In Caregiver Program admits temporary foreign workers to care for children, seniors or people with disabilities. Often, workers face excessive work hours, dismal living conditions or unreasonable expectations from their clients and families. Despite this, they are unable to switch jobs or access help. Although the government introduced reforms in 2010, which moved the responsibility for paying recruitment fees, medical insurance and half the cost of a caregiver's travel to their employer, many agencies closed because they could no longer charge exorbitant fees to both caregivers and families.<sup>276 277</sup>

## ***Foreign-ness turning exploitation into 'golden opportunities'***

Some employers may rely on foreign difference to increase employers' comfort about making greater work demands, withholding workers' documents and controlling workers' movements.<sup>278 279 280</sup>

*Well an English girl might want to talk to you and that would be awful! I say that as a joke but I really don't particularly want to talk to people. I want them to get on with the work and I'll spend ten minutes talking to them every day but I don't want to stand there whilst they're doing the ironing, listening to what they've got to say. No thank you.*<sup>281</sup> – British domestic worker employer

*They have a greater incentive to work because they desperately need the money.....She's dependent for money, so I think it's a circle that works well so that I can keep her.*<sup>282</sup> – British housewife



Foreign differences between employers and workers also allowed some employers to think of themselves as benefactors and protectors, rather than recipients of domestic work services.

*The raced/classed difference manifest in the Third World/ First World dichotomy (a dichotomy of need/provide) helps to generate a positive moral profile of the domestic employer in answer to important questions surrounding the morality of domestic service. This discourse on 'helping' allows the employer to present herself as a positive force, a kind and good woman, someone who will not abuse the 'resident alien' or create an 'inferior class', but rather extend a familial, maternal hand.<sup>283</sup> – Esther Bott*

Globalised economic processes have allowed for more precarious, temporary or flexible employment practices. In unregulated sectors, leaving abusive employers may be one of the only recourses available to legally unprotected workers.<sup>284</sup> The need to 'keep' labour makes it understandable why employers might look to migrant workers.<sup>285</sup> Workers who are unfamiliar with the language or processes in destination countries may be less able to leave easily. The task of moving abroad for work, and the debts incurred in that process, can also result in a mentality that makes it easier or more justifiable to tolerate exploitation. People working outside of their home countries may be more likely to view their situation as temporary, and more likely to withstand exploitation in order to maximise earnings.<sup>286</sup> A person's status as a worker can also mean that other identities recede, particularly given the absence of family in a labour migration context.



# WHAT APPROACHES CAN REDUCE THE DEMAND FOR EXPLOITATIVE LABOUR PRACTICES?

*Without challenging the global demand for cheap labour alongside individual poverty and lack of education, durable change cannot occur. Both aspects – the individual and the political – must be considered when assessing change.<sup>287</sup>*  
– GAATW

## ***Reducing discrimination against migrants***

Reducing discrimination can reduce the demand for exploitative labour practices. Reducing discrimination has to involve change at the structural level, such as allowing undocumented migrant workers to press charges against abusive employers. At the societal level, worker employers' attitudes need to change, as does public tolerance for abuses against migrant workers.

This is especially the case with employers of domestic workers. Discriminatory or racialised ideas about domestic workers are what essentially allow employers to re-frame their behaviour as 'charity'.<sup>288</sup> Reducing employers' discriminatory attitudes towards domestic workers poses a threat to employers' self-perceptions of themselves as 'good people'. Dr. Bridget Anderson's research found that many domestic worker employers who were willing to provide other rights and benefits (such as vacation time, pension, etc.) still did not agree with domestic workers joining a union. Without union organising efforts, it was still possible for employers to frame benefits and rights as 'gifts' or as a demonstration of the employer's kindness, rather than fulfilling human rights obligations and responsibilities.

## ***Decriminalising migration and protecting migrants' rights***

Reducing the demand for exploitable migrant labour includes fighting discrimination against migrants and women<sup>289</sup>, giving trafficked persons the opportunity to regularise their migration status and access labour and education markets<sup>290</sup>, and avoiding the conflation of exploited labour with 'illegal' migrant labour. Employing undocumented workers is not inherently exploitative in itself. Such employers may actually be the only opportunities for undocumented workers to earn income. Rather, it is the barriers to gaining documented status that can be used to employers' advantage. Regularising workers' migration status can also benefit employers. A study of employers in the Mekong region found some employers liked migrant worker registration schemes as it reduced the bribes they had to pay to police.<sup>291</sup>

*Trafficking legislation must not be used to further restrict the basic human rights of migrants – thereby risking increasing "supply".<sup>292</sup>* – Dr. Bridget Anderson

*Given that the conditions many migrants are seeking to escape are so bleak, violent and*



*degrading, it is also hard to see why anyone genuinely concerned with protecting and promoting human rights would place measures to tackle consumer demand for commercial sex at the top of their policy agenda. Measure to devise more humane, non-discriminatory, and rights based migration policies in countries of destination seem rather more urgent priorities.*<sup>293</sup> – Dr. Julia O’Connell Davidson

## **Fair and legal migration channels for working-class migrant workers**

To reduce the demand for exploitative labour practices, anti-trafficking stakeholders are increasingly calling for a more coherent fit between countries’ immigration policies and labour market needs.<sup>294 295</sup> Stakeholders are also calling for legal labour migration channels in order to reduce migrants’ reliance on traffickers as the only way to enter a country.<sup>296 297</sup>

*Preventative measures should therefore include facilitating the legal migration of poor and working class women.*<sup>298</sup> – Anna Weekes, Sex Worker Education and Advocacy Taskforce (SWEAT), South Africa

*More opportunities for legal migration must be created and migration policies should be based on a sound assessment of the demand for labour. Failure to do so can create preconditions for labour trafficking.*<sup>299</sup> - Recommendation to the UN Special Rapporteur on Trafficking in Persons, Especially Women and Children, Ms Joy Ezeilo at GAATW’s 2010 International Members Congress and Conference

This also involves ensuring that legal labour migration channels are fair and non-exploitative. For instance, Indonesian migrant worker groups in GAATW’s network argue that while current labour migration channels in Indonesia may be legal, they have further entrenched exploitation of migrant workers by requiring prospective migrant workers to pay excessive placement and travel fees.<sup>300 301</sup>

## **Enforcing labour standards and improving working conditions**

The demand for exploitative labour practices can be reduced by protecting workers’ rights, improving working conditions and allowing workers to organise.<sup>302 303 304</sup> Other demand-reduction





measures include monitoring recruitment agencies, sensitising employers and enforcing labour standards.<sup>305</sup>

***A group of migrant farm workers in the town of Immokalee, Florida, have demonstrated a number of strategies to reduce the demand for the products of slave labour....CIW's [the Coalition of Immokalee Workers] most widely-known effort is a boycott of the Taco Bell fast food restaurant, which purchases large quantities of tomatoes from exploitative growers. In the fall of 2001, a caravan of migrant workers and their supporters embarked on their "Taco Bell Truth Tour", a cross-country tour to raise awareness of their national boycott....As CIW's work illustrates, direct action can be accomplished by trafficked people themselves, independent of lawyers and free from legal impediments like the interposition of middlemen between trafficked labour and the ultimate beneficiary of slavery labour, in this case, Taco Bell.<sup>306</sup> – Mie Lewis***

***[A]wareness raising training amongst employers in destination countries would be very beneficial...Employers think that they are doing the young girls a favour by providing them with work and accommodation. Yet many are working in extremely exploitative conditions. Employers in Hong Kong don't realize the process that the migrant workers have been through before arriving in Hong Kong. They are unaware of the recruitment process, the holding centres and the debts that they incur.<sup>307</sup> – Kim Warren, ICMC***

Opinions vary on who should be responsible for, and most effective at, enforcing labour standards and improving working conditions. This can range from calling on states to fulfil their human rights responsibilities, to relying on voluntary codes of conduct in the private sector.<sup>308</sup> For a more detailed analysis on the role of the different stakeholders in labour-related anti-trafficking efforts, readers can refer to GAATW's *Beyond Border: Exploring Links Between Trafficking and Labour*.<sup>309</sup>

Most companies have traditionally argued that human rights are the purview of the state, including ensuring that national and international labour codes are enforced<sup>310</sup>. In 2011, the UN Special Representative on Business and Human Rights, Dr. John Ruggie, presented the *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* to the UN Human Rights Council. These principles, which are based on his 2008 *Protect, Respect and Remedy* Framework and the outcome of 6 years of extensive research, outline the dual responsibilities of governments to protect human rights, and businesses to respect human rights. On June 16, 2011, the UN Human Rights Council unanimously endorsed the Principles.<sup>311</sup>

According to the Principles, the state is bound to protect human rights according to the treaties or conventions of which they are signatories. This duty includes the protection of citizens from human rights violations committed by non-state actors, including corporations. Ruggie notes that weaknesses in states' human rights protection mechanisms, combined with their inability and unwillingness to sometimes hold companies accountable, result in gross human rights violations as a result of business activities. The Principles suggest that companies must engage in pro-active due diligence and adopt policies and implement management systems that will ensure the effective management of human rights issues. Although the Principles are voluntary in nature, increasing awareness of the framework and of the responsibilities of businesses have led many companies to strengthen their own policies and management systems without being prompted by government actors.<sup>312</sup>

There are a number of mechanisms in which businesses can reduce the demand for exploitative labour practices in their supply chain. These activities range from:<sup>313 314 315</sup>

1. Adopting a labour standards policy based on the International Labour Organization's Core Labour Standards. Although these standards tend to be gender-neutral, companies and their suppliers should ideally listen and respond to the needs of female workers who are often more vulnerable to exploitative labour practices.
2. Performing regular and robust auditing in order to enforce the labour standards policy and drive workplace improvements. Unannounced audits and worker interviews would strengthen monitoring and reporting, as would ensuring that accessible grievance mechanisms are in place to report on any gross labour violations that could be connected to companies.



3. Enforcing remediation plans that are developed based on an analysis of the root causes of exploitative practices. Here, buyers and contractors have a responsibility to create an environment for remediation so that plans can be sustained. Recent research has shown that factory managers are more likely to invest in improving working conditions if they develop long-term relationships with clients.
4. Promoting ownership of standards by suppliers in order to foster a genuine commitment to labour standards compliance. In order to successfully promote ownership of these standards, buyers should build supplier management capacity to track and analyse the benefits of compliance, deliver training to raise awareness of supply chain complicity, and work to develop strong partnerships through preferential order placement and building longer-term trading relationships.
5. Increasing worker participation in the workplace, by facilitating dialogue about their health and safety needs, allowing them to exercise their right to freedom of association and collective bargaining, and providing support and training for management and workers on how to communicate with each other.
6. Working with suppliers when work volumes are growing in order to minimize the risk of unauthorized outsourcing or engaging in exploitative practices through unpaid and excessive overtime.
7. Working with local industry associations in order to ensure that it promotes industry-wide approaches to the demand for exploitative labour practices. Companies can also reach out more actively to host governments with weak mechanisms for protecting and monitoring human rights, as well as laggard companies who may sometimes drive ethical companies out of business.
8. Transparently communicating what the continued challenges are in responding to the demand for exploitative labour practices and identifying improvements, such as higher productivity in the supply chain through stronger supplier relations. For example, Echo Sourcing, a Bangladeshi supplier to UK fashion retailer New Look, has established long-term relationships with a limited number of suppliers. It has also invested in human resources practices to ensure productivity while raising workers' living standards. Such actions include establishing worker committees for regular dialogue with management, and offering its workers a 'provident fund', as well as free lunches and on-site doctors. Through supply forecasting by New Look, Echo Sourcing is also able to respond to sudden production changes while finding an optimum point at which overtime hours fall, productivity increases and workers' net pay rises.

## ***Educating and raising awareness among investors to reduce demand***

Investors are increasingly becoming aware of the legal, reputational and financial risks of investing in companies that engage in exploitative labour practices. Individual investors and institutional investors have the opportunity to use their significant market capital in order to demand investments in robust labour policies and sound labour management.

**A recent example of investor action is the response to the persistence of slave labour in Brazil. A 2006 report by Bloomberg on slavery in Latin America documented how Brazilian workers from the impoverished cities in Brazil's northeast or from the Andean Highlands of Bolivia and Peru were recruited by slave camp owners on the promise of steady-paying jobs. Once at the Amazon camps, workers are forced – sometimes at gunpoint – to work off debts to their bosses for food and clothing bought at company stores. Workers go for months without pay and are forced to work in extreme heat without access to medical facilities and clean water. The report clearly linked the steel used by leading automobile and appliance manufacturers with slave labour in Brazil. Investors such as Domini Social Funds and Hermes Fund Management Ltd. (UK) were quick to respond to the findings of the report.<sup>316</sup>**



**Domini Social Funds pressed Nucor, the largest buyer of Brazilian pig iron, for a more comprehensive and transparent system for addressing poor labour conditions in Brazil. In response, Nucor adopted a policy of prohibiting forced labour in its supply chain and published details about its response to slavery for the first time. Domini also filed a shareholder proposal in 2009, receiving a 27% vote. Domini withdrew its proposal after entering into a written agreement whereby Nucor required its top-tier Brazilian pig-iron suppliers to either join the Citizens Charcoal Institution – an institute created by the Steel Industry Pact and signed by 15 companies, the International Labour Organisation (ILO) and trade unions in the sector – or sign and adhere to the National Pact for the Eradication of Slave Labour. Nucor has also agreed to publish annual progress reports on implementation of these policies.**

**Hermes Fund Management Ltd. (UK) raised the issue with fourteen companies in the course of a collaborative engagement process. These companies included Bombardier, Daimler Chrysler, Deere & Co, Ford Motor Company, General Motors, Harley Davidson, Nippon Steel, Honda Motor Company, JFE Holdings, Magna International, Russell Metals, Sumitomo Metal Industries and Suzuki Motor Corp. The focus of this engagement was to change company relationships with their suppliers in Brazil through a disclosure of their risk management policies and practices for dealing with slave labour. The aim was to get companies to re-think their approaches and engage in a process of developing robust policies and accountability structures.**

Institutional investors often have the capacity to influence markets because of the significant portion of capital invested in the economy. As such, investors can play a key role in reducing the demand for exploitative labour practices by sending companies a clear message about their unwillingness to accept such conditions. There are several ways investors can send such a signal:

- 1. Develop and implement responsible investment policies to include relevant labour considerations.** A simple first step for pension trustees is to ask in-house investment analysts or the external fund manager about whether current policies take labour management into account in investment decision-making. If current policies do not place a strong emphasis on workplace conditions, it would be important to communicate with plan members about whether a strong emphasis should be placed on incorporating labour considerations in investment decision-making.
- 2. Build the competency of decision-makers and those who will implement investment policy in order to ensure that decisions are based on relevant, sufficient, and valid information.** Such methods can include organizing discussions with peer pension plans that have developed effective policies incorporating corporate labour management risk and benefit assessments.
- 3. Review, update and communicate policies in order to document the plan's goals and objectives and provide trustees with a clear overview of the plans investment and program implementation.** In particular, plan members could ask the fund to take a public position on the impact of poor corporate labour management practices on investment decision-making and report regularly on discussions around relevant risks and benefits. They could also establish procedures to communicate with plan members and members on the board of trustees about what the fund's position is regarding laggard companies with exposure to labour exploitation and trafficking. In doing so, decision-making for the investment analyst can be simplified by incorporating member feedback on a regular basis as well as by determining the best mechanism for shareholders to practice active ownership.
- 4. Screen out companies with poor labour management practices.** Screening is the practice of evaluating equity investments based on certain social and/or environmental criteria. Investors can aim to capture the labour management records of companies and apply identified criteria in order to determine whether or not to exclude or include particular investments.



5. Engage with companies that may have substantial risk tied to exploitative labour practices: As shareholders of companies, investors are granted formal rights including proxy voting and it is the fundamental right of every holder of common stock to vote on certain matters of corporate business and to ensure that company policies and activities are financially prudent and socially responsible. Generally, investors can voice their opinions on corporate performance through voting on matters pertaining to governance and policy issues via written or electronic notice to the company, or through a proxy voting service. Through this process, shareholders will vote for, against, or withhold/abstain on proposals put forth by management and/or other shareholders. Investors who have determined that an investment can and must improve upon its current labour practices but have failed to generate an adequate response from corporate management may seek to persuade other shareholders to pass a resolution mandating that management take specific actions. In filing a proposal, investors can push management to adopt a policy and improve upon practices related to labour. As such, the shareholder proposal process provides a great communication channel among shareholders, company management, and other interested stakeholders.

## ***Consumer education and raising awareness to reduce demand***

***How does consumer behaviour influence human trafficking, and how is consumer behaviour stimulated by those offering cheap goods or services, or goods and services that are illegal?<sup>317</sup> – UN.GIFT or the UN Global Initiative to Fight Trafficking***

Increasing public awareness as a demand-reduction strategy is mentioned in a number of international anti-trafficking instruments.<sup>318 319 320</sup> This assumes that most consumers do not specifically desire services or products from trafficked labour but that they desire services or products that are *cheap* and *available*, and that these characteristics may indicate unethical or exploitative employment practices.

Awareness raising strategies may differ, depending on whether they're targeting consumers of *services* that may be provided by forced labour (e.g. domestic work, sex work) or consumers of *products* that may be produced by forced labour (e.g. agricultural farms, carpets, clothing). In situations such as domestic work and sex work, the connection between consumer and worker is much more intimate and immediate than the connection between the consumer of a product and the workers involved in producing that product.

Awareness raising efforts will also differ, depending on whether they are meant to bolster consumers' activism (e.g. boycotts, corporate protests) or consumers' buying choices only. The success of the latter may vary across sectors, depending on the extent to which consumption choices are based on ethical issues.

### **Limitations of a consumer-based approach**

Relying on consumer 'goodwill' may not be sufficient in itself to address a multifaceted issue such as trafficking. It's still not known how significant a role consumers play in *reducing* the demand for exploitative labour practices that trafficking can involve. It could be that consumer awareness is promoted as a demand reduction strategy because consumers actually have a significant impact on production and service costs. Or it could be that consumer-based approaches offer an attractive distraction from addressing structural factors and states' obligations to fulfil their human rights responsibilities.

***As there is very little research currently directed at the structural market factors that contribute to trafficking, we remain open to any evidence you have demonstrating that the purchasers of sex (and agricultural and other products, for example, cheap tomatoes and T-shirts), and not profit makers, are the real engines driving the crime.<sup>321</sup> – Letter from US academic researchers to Ambassador-at-Large Luis Cde Baca, US Department of State***





Consumers may not be the most significant determinant of whether a service or product requires the use of *forced* or *exploited* labour that has been trafficked. For instance, GAATW research found that strawberry farmers in Spain relied on temporary migrant workers because the labour costs for harvesting was the only part of the production chain that farmers had any power over.<sup>322</sup> All other costs in the production chain are determined by others, with a view to maximising profits. It is not clear whether consumers (through their buying choices alone) would be able to impact the amount of power farmers' have over their labour costs.

Consumer awareness efforts may be most appealing or effective with certain groups of consumers with the resources to educate themselves on ethical consumption issues, and the money to afford higher-priced options. So far, consumer-based demand-reduction approaches appear to focus on cost as an indicator of ethical trade practices. Although few would disagree with encouraging more thoughtful consumption, it would be a shame if ethical consumption becomes limited to just another marker of middle-class prosperity.

### **Opportunities with consumer-based approaches**

However, this may be an opportune time to explore the utility (and limitations) of consumer awareness raising strategies in demand-reduction, especially given the current trend towards consumer responsibility in other movements (e.g. climate change, child labour, environmental sustainability, Fair Trade, frugality).

Consumer-based approaches may particularly useful in localised contexts where there is a closer link between the provider and consumer (e.g. domestic work, sex work, begging).<sup>323</sup>

***In the case of children who are trafficked so that they can beg for money in the streets or outside places of worship, people who give out of generosity and a sense of charity have to be approached carefully, so as not to undermine their sense of charity. In Thessalonica, in northern Greece, the Greek public was initially generous when, in the late 1990s, Albanian children began turning up at traffic lights and begging from motorists. Once members of ARSIS had understood what was going on, they set about influencing the public in order to make people aware that their donations were going to traffickers who controlled the child beggars. The campaign had significant success. By 2003, Albanian youngsters were no longer being paraded in tattered clothing to generate pity, although smaller numbers continued to sell small items to diners in pavement restaurants and play music to them in order to collect money.***<sup>324</sup> – Mike Dottridge

Consumer awareness raising efforts may also offer a more socially palatable way of promoting migrant workers rights in destination countries. Through conversations with migrant rights organisations, we have noticed the difficulty in promoting migrant rights in destination countries. In many destination countries, attitudes towards migrant workers can range from hatred, paternalism, paranoia and fear. Cynically speaking, it may be more challenging to change xenophobic beliefs such as 'migrants steal jobs' than it might be to offer the public a simple way to affirm an ethical identity through what they buy.



# Conclusion

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## ***Limitations and harms of ‘end demand for prostitution’ approaches***

‘End demand for prostitution’ approaches have not been shown to reduce trafficking or prostitution (see page 28, *What consequences do ‘end demand for prostitution’ approaches have on anti-trafficking efforts?*). As ‘end demand for prostitution’ approaches typically call for penalising or stigmatising sex workers’ clients, these approaches can also endanger sex workers’ physical and economic security. For numerous sex workers rights groups (including GAATW members), focusing on ‘demand’ has included protesting ‘end demand for prostitution’ campaigns.

## ***Reduce the demand and opportunity for exploitative labour practices, in any sector***

A more effective approach to demand might instead look at reducing the demand for *exploitative labour practices*, in whatever sector trafficking occurs (including, but not limited to, sex work). Trafficked labour is only one form of *exploited* labour available to employers. Shifting the focus from the demand for *exploitative labour practices* (whether it is trafficked labour or undocumented migrant labour or forced labour) might prove to be more beneficial and more relevant across more work sectors.

Opinions vary as to who should be responsible for, and most effective at, enforcing labour standards and improving working conditions. This can range from calling on states to fulfil their human rights responsibilities, to relying on voluntary codes of conduct in the private sector, to consumer awareness initiatives, to encouraging investors to demand sound labour management. However, it’s important to remember that fostering employer/consumer “goodwill”<sup>325</sup> is not a substitute for structural change and human rights protection. Consumer awareness initiatives targeting the demand for *exploitative labour practices* (in any sector) are potentially useful but they aren’t, in itself, able to stop trafficking. A sole focus on (sex workers’) clients and consumers as the groups most complicit in trafficking ignores states’ human rights obligations and structural factors that increase the risk of trafficking, such as the lack of livelihood opportunities in countries of origin, restrictive immigration policies, privatisation of recruitment agencies, and so on.

## ***Simple demand-supply analogies don’t help clarify complex issues, such as trafficking***

The way ‘demand’ is currently mentioned in anti-trafficking discussions often seems to reduce trafficking to a crude economic equation, rather than helping to clarify a complex, multifaceted issue. The use of catchphrases (e.g. if there’s no demand, there’s no supply) may help attract media attention or assist fundraising efforts, but it’s very unlikely that they help tackle the broader gender, migration, and labour issues that intersect with trafficking.

This is not to say that demand isn’t a factor in trafficking. But if we’re going to talk about it, we need to be clearer about what kind of demand we’re talking about and how we’re talking about it. Is the demand for specific commodities that’s the issue or is it the demand for profit? The research of Dr. Bridget Anderson (Oxford University) and Dr. Julia O’Connell Davidson (University of Nottingham) is particularly valuable in analysing the nuances of demand and what those nuances mean for anti-trafficking efforts, labour rights and migrant rights efforts.

Most anti-trafficking discussions assume a one-way direction between demand and supply, i.e. demand affects supply. However, demand and supply can impact each other in various ways. For instance, the large availability of supply may increase demand; demand does not automatically create supply. In this guide, we’ve mostly



analysed the impact of demand-based approaches on the 'supply' (e.g. the impact of demand-based approaches on sex workers' rights) but there's been little discussion about how 'supply-side' approaches could shape demand. For instance, how do workers' organising efforts change the expectations and behaviour of employers?

## ***'Supply'-side approaches to 'demand'-based problems***

Describing people as commodities can simplify anti-trafficking analysis, but does this analogy help guide anti-trafficking efforts or does it replicate commodification by traffickers? One of the troubling aspects of current discussions on demand is the absence of migrants and workers as anything except 'product'.

One of GAATW's guiding principles is grounding our work in what women migrants and workers *say* and *know* and *want* about labour, migration and women's rights. What's missing from current demand-based approaches are migrants' and workers' motivations, aspirations, risk analysis, recommendations, and resistance strategies. Numerous stakeholders point out that talking about 'demand' also needs to include the 'supply's' 'demands', such as migrant workers' demands for legal migration opportunities, the demand for safe working conditions, the demand for income security and livelihood options.

It could be that problems about 'demand' would be best met with 'supply'-side solutions (i.e. strengthening workers' rights). For example, trade unions have been successful in shaping employers' behaviours, expectations and attitudes even though their work typically doesn't refer to 'demand'.

This is especially the case for sex workers rights organisations. The 'supply' or sex workers have argued strongly to stop 'end demand for prostitution' approaches. Advocates of sex workers rights have argued that it is working conditions in sex work that most impact sex workers' safety, not 'demand'. In the sex work sector, tackling the demand for exploitative labour practices may provide a more productive, rights-based approach to reducing demand that fosters exploitation than the 'end demand for prostitution' approaches currently touted by prostitution abolitionists.



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# Endnotes

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# **HUMAN RIGHTS**

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