

# HUMAN RIGHTS, SEX WORK AND THE CHALLENGE OF TRAFFICKING

**Human rights impact assessment  
of anti-trafficking policy in the UK**

## **Executive Summary**

**A report by the x:talk project  
October 2010**

## Acknowledgments

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*Human rights, sex work and the challenge of trafficking*

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# Foreword

This report was produced by the x:talk project and the main findings reflect the experiences and views of people working in the sex industry in London. The x:talk project is a grassroots sex worker rights network made up of people working in the sex industry and allies. In addition to providing free English classes to migrant sex workers, we support critical interventions around issues of migration, race, gender, sexuality and labour, we participate in feminist and anti-racist campaigns and we are active in the struggle for the rights of sex workers in London, the UK and globally. The x:talk project has been developed from our experiences as workers in the sex industry. x:talk is sex worker-led not because we think that being a ‘sex worker’ is a fixed identity, but because we believe that those who experience the material conditions of the sex industry are in the best position to know how to change it.

This report demonstrates that for the human rights of sex workers to be protected and for instances of trafficking to be dealt with in an effective and appropriate manner, the co-option of anti-trafficking discourse in the service of both an abolitionist approach to sex work and an anti-immigration agenda has to end. Instead there needs to be a shift at the policy, legal and administrative levels to reflect an understanding that the women, men and transgender people engaged in commercial sexual services are engaged in a labour process. The existing focus in anti-trafficking policy on migration, law enforcement and on the sex industry does not address the needs, choices and agency of trafficked people, whether they work in the sex industry or elsewhere, and prevents migrant and non-migrant people working in the sex industry from asserting fundamental rights.

# Executive Summary

The x:talk project conducted a Human Rights Impact Assessment (HRIA) of Anti-trafficking Policy (ATP) in the UK with a view to examining whether ATP has been used to advance an abolitionist policy framework in the sex industry, as well as what the effect has been of its implementation in a climate of increasingly tighter border and immigration controls.

The study shows that processes set up to deal with cases of trafficking are in many ways deeply flawed and have not suitably addressed the human rights aspects of trafficking, instead tending to deal with trafficking as organised immigration crime.

ATP's have resulted in an unprecedented incursion into the lives and work of people employed in the indoor sex industry. They have resulted in an increase in arrests and convictions for prostitution and immigration crimes. They also contribute to a climate of fear among migrant sex workers and increase the likelihood that they will engage in behaviours that make them vulnerable to exploitation and rights abuses.

Government-provided services for men, transgender people and people trafficked into non-sexual work are seriously inadequate and those services offered to women trafficked into sex work risk undermine their right to work.

Anti-trafficking laws have changed the way people in the sex industry work. In particular, more support staff - often referred to as maids; are now working off-site, sex workers are more likely to be displaced from places of work, and service providers are finding it harder to find sex workers and maintain services to them.

This report argues that in order to guard against exploitative conditions in the sex industry and to regulate workplaces against unsafe practices, sex work must be recognised as work; that problems occurring at work should be dealt with as employment issues; and that safe workplaces and fair employment should be rights enjoyed by workers in the sex industry regardless of their migration status.

The anti-trafficking laws have been applied in the UK to arbitrarily arrest and detain sex workers and others working in the sex industry. Raids have resulted in arrest and detention without regard to the right to liberty or a fair trial. For people identified as victims of trafficking, there is no mechanism guaranteeing the return of property or compensation for crimes committed against them.

The Detained Fast-Track Asylum process poses a number of potential rights violations, some particular to trafficked persons. The National Referral Mechanism (NRM) operates in a flawed way with limited appeal processes and no access to representation or legal aid, which exacerbates these rights violations. Problems with the NRM leave those trafficked into non-sexual labour at risk of being classified as 'illegal' immigrants, rather than as victims of crime, and more vulnerable to arrest and detainment in contravention of their rights.

ATP has been developed largely without input from those it seeks to affect, compromising the rights of those groups to participation and access to information. This report argues that the UK must incorporate the voices of affected groups into the development of all future anti-trafficking policy and legislation.

# Recommendations

The evidence and research gathered in this project demonstrate that for the human rights of sex workers to be protected and for instances of trafficking to be dealt with in an effective and appropriate manner, the co-option of anti-trafficking discourse in the service of both an abolitionist approach to sex work and an anti-immigration agenda has to end. Instead there needs to be a shift at the policy, legal and administrative levels to reflect an understanding that the women, men and transgender people engaged in commercial sexual services are engaged in a labour process. From this labour framework, it is then possible to identify instances of forced labour and poor working conditions and enact appropriate remedies and responses while at the same time protecting the rights of sex workers and migrants.

## **This report recommends:**

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- decriminalisation of all aspects of the adult commercial sex industry;
- the UK signs and ratifies the *Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (ICPRMW);
- the UK signs and ratifies the *ILO C no. 143: Convention on Migrant Workers*;
- the incorporation of the Right to Free Choice of Employment and to Just and Fair Working Conditions into the *Human Rights Act 1998*;
- the incorporation of the Right to Participation and Access to Information into the UK *Human Rights Act 1998*;
- the creation of a single law to deal with trafficking rather than a law that creates a special relationship between trafficking and prostitution, i.e. no differentiation in law between people trafficked into sex work and those trafficked into other forms of labour. This law should be included in an act dealing with slavery and forced labour, not with immigration and asylum;

- a definition of trafficking is adopted into UK law that differentiates between people forced, coerced or deceived into sex work and those migrating to work in the sex industry willingly;
- removal of sections 14 of the *Policing and Crime Act 2009*;
- removal of section 21 of the *Policing and Crime Act 2009* and other provisions, such as the “brothel-keeping” laws, which make it an offence for sex workers to work together;
- there is an acknowledgement by the government, Home Office and other official bodies dealing with ATP, that raids are an ineffective method for detecting and assisting trafficked persons and an end to raids on indoor sex venues as part of ATP;
- sex workers and their organisations are invited to participate in all future consultations about anti-trafficking policy;
- automatic granting of the right to asylum for trafficked persons, should they wish to remain in the UK as a way of removing the possibility that their migration status can be used as a control mechanism by their traffickers or exploiters;
- guaranteed access to representation and legal aid for all people referred to the NRM;
- separation of support services for trafficking persons from criminal or immigration aspects of ATP, so that access to such services is no longer dependent on cooperation with police investigations;
- a greater role for service providers and welfare organisations in the NRM to ensure that trafficked persons are referred to support and services as a priority, not as an after-thought;
- provision of support and services for trafficked persons that are not contingent upon them exiting the sex industry.

# the x:talk project

x:talk was born in a brothel in south London. The project grew out of the experiences of a prostitute called Alice who was working in a flat with many women from Thailand. They had paid £20,000 to come to the UK to work, they did not have their passports and they earned less money than Alice who was considered to be 'European'. One reason they did not earn as much money as Alice was because they couldn't negotiate with English speaking clients very easily. When Alice asked the women how she could help them – they expressed very clearly they did not want to be 'helped' but instead that they wanted to learn English. So began the first x:talk classes – in between clients and during the long hours of waiting. It was clear to Alice that we need to be able to speak together to be able to organise at work. x:talk is not about helping people, but about collective action and solidarity.

The x:talk project has grown into a sex worker-led workers' co-operative which approaches language teaching as knowledge sharing between equals and regards the ability to communicate as a fundamental tool for sex workers to work in safer conditions, to organise and to socialise with each other.

We understand language to be a politically and socially charged instrument of power, which we aim to teach critically and thoughtfully. Our English classes are organised to create a space where sex work as work can be openly talked about and does not have to be concealed or hidden. Through providing such a space we aim to challenge the stigma and isolation attached to our profession while at the same time we guarantee confidentiality and respect for those involved.

We are interested in organising to radically transform the sex industry so that sex workers have more control over their lives and work. We are not interested in passing judgement on what type of work people do. We recognise that many women, men and trans people have a diverse range of experiences in the sex industry – good, bad and ugly. Our project is open to people who sell sex or sexual services – including workers in brothels, escort agencies, outdoors, flats, bars, on the phone or the internet, strippers, dancers, models, porn stars and glamour models. We respect and support people's choices or circumstances about continuing to work in the sex industry or exiting the industry.

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