Sexual Humanitarianism. Understanding agency and exploitation in the global sex industry

POLICY REPORT

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Introduction

Between October 2016 and September 2020, the project SEXHUM studied the relation between migration, sex work and trafficking by analysing migrants' own understandings and experiences of migration, work, exploitation and trafficking.

At its core is the concept of 'sexual humanitarianism' referring to the ways in which migrant groups become the object of targeted concerns and intervention on the part of humanitarian institutions, representations and NGOs on the basis of their assumed vulnerability in relation to their sexual orientation and behaviour.

The project was funded by the European Research Council (ERC-CoG-2015 - ERC Consolidator Grant) and its full name is Sexual Humanitarianism: understanding agency and exploitation in the global sex industry.

SEXHUM investigated the understanding and experiences of agency and exploitation of migrant sex workers and the impact of anti-trafficking and other humanitarian and social interventions targeting them in strategic urban settings in Australia (Melbourne and Sydney), France (Paris and Marseille), New Zealand (Auckland and Wellington) and the United States (New York and Los Angeles).

Its main aim is to produce new concepts and data reflecting the perspectives and priorities of migrants working in the sex industry in order to develop more efficient and ethical policies and social interventions addressing their needs.

In order to meet its aims the project hired 6 postdoctoral researchers for 36 months to undertake long-term fieldwork in each of the 4 national settings of the project.

SEXHUM had a duration of 4 years (2016-2020) and was based at Kingston University, London (Department of Criminology and Sociology) and at Aix-Marseille University (LAMES – Mediterranean Laboratory of Sociology).

More information about SEXHUM is available on its website: www.sexhum.org

The project's PI is Prof Nicola Mai. Dr PG Macioti, Dr Calogero Giametta and Dr Calum Bennachie were the lead researchers in Australia, France and New Zealand, respectively. Dr Annie Fehrenbacher, Dr Heidi Hoefinger and Dr Jennifer Musto were the lead researchers in the United States.

More information on the SEXHUM research team is available on its dedicated website page: https://sexhum.org/research-team/

Methodology

SEXHUM's research methodology draws upon a combination of qualitative methods: long-term participant observation, semi-structured interviewing, and collaborative ethnographic filmmaking (ethnofiction).

This methodological approach was adopted in order to enable the research team to observe and analyse the individual and social dimensions through which sex workers' experience of migration, work, exploitation and trafficking emerge and evolve along the migration process.

In each of the 4 national settings the research set itself the target to undertake 50 semi-structured interviews with cis and trans men and women, as well as with gender non-binary people working in the sex industry.

In each site the project also planned to undertake 20 key semi-structured interviews with informants including social service providers, law enforcement, or legal advocates.

Sex workers and trafficked persons were compensated in cash for their time according to national research practices. Peer researchers belonging to the sex work community were involved as researchers, co-authors and collaborators.

Between April and July 2020 the project undertook extra targeted interviews, including repeated ones, focusing on the impact of the Covid-19 pandemic on the lives and rights of migrant sex workers.

Overall the project exceeded its target by undertaking 240 in-depth, semi-structured interviews with purposively sampled sex workers and trafficked persons, and semi-structured interviews with 80 key informants, including social service providers, law enforcement, and legal advocates.

Informed consent was obtained from all participants and study procedures were approved by the Institutional Review Boards of Kingston University (UK) and endorsed by key academic organizations in the four national settings of the project. To protect confidentiality, all interviewees were provided with a pseudonym different from their real and work names.

To account for the ways in which race, gender and sexuality frame the research process and the realities it investigates, SEXHUM adopted an intersectional and self-reflexive approach to understand and analyse existing inequalities, hierarchies and divisions.

This ethical and methodological approach is particularly important and relevant for SEXHUM because of the whiteness of the research team, which reflects existing privileges in academia and could potentially discourage and undermine the participation of racialized and marginalised social groups.

The research team has addressed this issue by being aware of the ways in which racialised inequalities can translate into power disparities during the research process (particularly in interviews), by undertaking long term ethnographic fieldwork before undertaking interviews, which allowed for research participants and researchers to establish a relationship of trust, by including the experiences of the widest possible variety of racialized participants, by collaborating with racialized community members in project data gathering, publications and dissemination events, and by relying on post-colonial and decolonial scholars and theories.

The project's methodological approach included the production of collaborative ethnographic documentaries using fictional methods as a way to elicit, analyse and represent the individual and collective experiences of migrant sex workers. The method, called ethnofiction, is based on the active collaboration of research participants in all of the phases of the production of a film, from scriptwriting to editing. SEXHUM has produced two ethnofiction documentaries in collaboration with two grass roots associations of migrant sex workers: Chinese cis women in France (Paris) and Latina trans women in the US (NYC). More information on the two ethnofiction documentaries and their trailers are available on the project's website: www.sexhum.org

The SEXHUM team would like to acknowledge and express their gratitude to all of the migrant, sex worker and trans participants and key informants in our study, as well as the community partners who made this research possible.

Sample

The 240 semi structured interviews gathered across all the four national SEXHUM settings include the experiences of a great variety of people working in the sex industry, in terms of their ethnicity, area of work, migration, sex-gender identity, class and race.

Having access to such variety is a great achievement of the project, which was able to analyse strategically different experiences of agency and exploitation in relation to sex work and to the impact of anti-trafficking and other humanitarian and social interventions on migrant sex workers' lives and rights. The analysis of the data gathered by the project advances the study of agency by contextualizing it within the socio-economic dimensions within which it emerges and evolves in relation to transforming circumstances in the lives of migrants.

The great diversity of our research participants challenges the stereotypically sex-gendered and racialised criteria of victimhood guiding humanitarian and other social interventions. These often misread and ignore migrant sex workers' real vulnerabilities and limit their agency by exacerbating their exploitability in the sex industry and in other sectors of employment of migrant labour.

More details about the demographic breakdown of our sample will be given in the specific country sections below.

Main Aims and Research Questions

The four main aims of the SEXHUM project were to:

- develop an innovative conceptual and social intervention framework to address the interplay between migration, sex work, exploitation and trafficking;
- impact on existing social interventions addressing sex work, trafficking and asylum by producing and disseminating policy recommendations;
- produce a definition of what constitutes exploitation in the global sex industry that is informed by the experiences and understandings of migrant sex workers;
- propose an innovative ethical framework to study vulnerable populations and disseminate findings including film-making as a form of participative expression.

The project analysed migrants' understandings and experiences of agency and exploitation through four sets of research questions:

1. How do migrants who are targeted by humanitarian social interventions understand agency and exploitation? What forms of social intervention and support would they welcome?
2. How do humanitarian social interventions impact on the rights and lives of the migrants they support?
3. Which definition of exploitation could maximize the positive impact of existing anti-trafficking and other initiatives of social intervention by enhancing the lives and rights of migrant sex workers?
4. What is the role of sexual humanitarianism in the emergence of new forms of national and global governance of both migration and sex work?

Key Findings

- Sex work is an important livelihood for many migrants, particularly for those who are undocumented, marginalised and stigmatised away from mainstream labour.

- Most of our research participants understood their experiences of exploitation in the sex industry in terms of labour exploitation (working conditions) rather than sexual exploitation.

- For most research participants working in the sex industry was a way to avoid being exploited in mainstream forms of labour, when they could access them.

- Across all the four national settings of the project, humanitarian concerns and interventions on sex work tend to legitimise increasingly repressive, racialised and extreme forms of migration control.

- There is a proportional relationship between the degree of racialisation of migrant groups and their subjection to sexual humanitarian concerns, controls and bordering.

- Racialised concerns tend to focus on target migrant populations such as Asian cis women while neglecting the vulnerabilities of other migrant groups, such as trans Latina women.

- There is an inversely proportional relationship between the degree of criminalization faced by migrant sex workers (including people in trafficking situations) and their ability to access justice and assert their rights and lives.

- Most of our research participants understood and experienced their agency and exploitation as embedded in the collective realities of the social groups they belong to, rather than only in individual terms.

- In order to address the social and economic vulnerabilities associated with sex work it is necessary to for all policies to follow the guidance of sex worker rights organizations and support not only individuals, but also the communities and peer organizations representing and helping them.

Overall Policy Making Suggestions

The following suggestions apply to all of the four SEXHUM national settings.

More country-specific suggestions are available in the national sections of the report. Some recommendations will be repeated here and in the national sections when they are specifically relevant.

Overall and national policy making suggestions were elaborated drawing on our research data and in collaboration with sex worker rights activists including Julie Bates (Principal Urban Realists Planning & Health Consultants) and Jane Green in Australia, Thierry Schaffauser in France, Annah Pickering (NZPC - Aotearoa New Zealand Sex Workers' Collective) in New Zealand, and Kate Zen (NYC) and Ashley Madness (LA) in the United States.

Our research findings strongly suggest that:

Decriminalization and labour rights

- The repeal of all repressive laws that criminalize both the sale and purchase of sexual services is the most appropriate and least harmful policymaking framework for sex work.

- The decriminalization of sex work should be accompanied by anti-discrimination measures and socio-economic resources supporting the access of sex workers, including migrants, to healthcare, housing, employment, education, financial and insurance services, parenthood rights and other key dimensions of social life.

- A work permit with sex work authorization should be available to migrants working in the sex industry. This should not mention sex work or 'adult entertainment' in order to avoid further stigmatization and victimization of migrants.

Anti-trafficking Policies and Interventions

- Anti-trafficking interventions should separate themselves from anti migration and anti sex work law enforcement if they want to reduce the vulnerability to exploitation of the people they aim to support.

- Access to protection and support for victims of trafficking should not be conditional to collaboration with law enforcement or to the possible prosecution of their traffickers.

- Any policy and social intervention on sex work and trafficking can only have a chance of succeeding if it also includes prospective and actual migrants' legal right to access the international and national labour markets.

Social Interventions

- Sexual humanitarian, anti-migration, and anti-sex work initiatives and interventions are harmful to the lives and rights of migrant sex workers. As such they should be defunded and the resulting resources diverted to sex worker rights associations and other organizations supporting them.

- Sex worker rights organizations and communities should be consulted before any new policies and interventions targeting sex workers are designed and implemented. Their feedback and reactions should be taken into consideration, including not proceeding with such policies and interventions.

- Peer-to-peer (migrant) sex worker community support networks, organisations and outreach projects should be specifically funded and promoted to continue providing a range of free in-language services and community spaces.

Stigma, Discrimination and Abuse

- Sex workers should be able to benefit from mainstream and targeted assistance and protection measures in the context of domestic violence.

- Police who commit violence, harassment or other crimes against sex workers must be held accountable for their abusive acts.

- Since sex workers are part of different minority groups, policies addressing sex work must effectively address all structural discriminations framing it such as sexism, racism, and transphobia.

- The voices of groups representing marginalized sex workers, such as transgender sex workers, sex workers of colour, or immigrant sex workers, should be elevated.

More details about project findings and their policymaking implications will be given in the specific country sections below.

Covid-19

The Covid-19 pandemic ravaged the communities with which we have undertaken the research and exacerbated their marginalization, stigmatization and socio-economic precariousness.

Its impact highlighted the positive difference decriminalization makes by enhancing the entitlement to social protection available to different strata of the sex working population.

It also highlighted the paradoxical dynamism and lack of resources of the peer community organizations that supported sex workers during the pandemic by organizing fundraisers to provide their most vulnerable members with essential food and medicines.

Across the four national settings of the project, migrant sex workers, and particularly those who are undocumented and racialized, are the most vulnerable populations because they cannot benefit from the financial support measures available to the citizens and documented residents.

In New Zealand, where sex work was decriminalized in 2003, but only for citizens and people holding permanent residency, NZ sex workers and permanent residents can avail themselves of the financial support (wage subsidy) offered by the government. Those who are reluctant to apply for fear that their names and occupations would be officially recorded, are encouraged by the national sex worker organization NZPC to apply as "personal service providers". However, undocumented migrants and those on temporary visas are not included because they are not legally authorised to work in the sex industry as a way to supposedly protect them from being trafficked.

In France, where the government approved in 2016 a law aiming to abolish the 'prostitutional system' by criminalizing clients and where helping and supporting sex workers can be easily framed as procuring or pandering, French and migrant sex workers have been excluded from the financial support measure put in place by the Macron government.

In the US, where sex work is criminalized per se (except for a few counties in rural Nevada), all citizens under a certain income bracket are theoretically entitled to $1,200 COVID-19 relief cheques. However, sex workers are ineligible for COVID-19-related financial support. This means that all undocumented migrant sex workers and those US citizens who have not been able to file their taxes under different categories have no recourse to public funding.

In most states of Australia, those where sex work is decriminalized (New South Wales and the Northern Territory) or regulated (Queensland, Australian Capital Territory and Victoria) sex workers who are citizens or hold permanent residency are entitled to apply for income support schemes. These provisions still exclude all migrant workers with temporary or no substantial visa and those eligible sex workers who are unable to prove income and loss of revenue and/or want to protect themselves and their families from stigma.

The comparison between these four national contexts highlights the difference decriminalization makes when it comes to sex workers' access to crucial rights, including COVID-19 related emergency funds.

In countries where sex work is considered work, sex workers who are nationals or permanent visa holders have been included in the financial assistance available to other members of society, while this has not been possible where sex work is criminalized. Yet, irregular, undocumented or temporary visa holding migrant sex workers are excluded from support measures in all sites.

Covid-19 specific policymaking suggestions:

- Sex workers should receive state aid to be able to afford to stop working during the Covid-19 pandemics
- Fines incurred for non-compliance with containment measures should be amnestied in the absence of adequate support.
- Funding streams for anti-trafficking, HIV/AIDS and Covid-19 efforts should be inclusive of sex workers and in partnership with sex worker organisations.
- Sex workers should receive risk reduction material (thermometers, masks, condoms, hydro-alcoholic gel) and screenings in relation to the Covid-19 pandemic.
- Sex worker rights and community health associations should receive adequate funding to provide sex workers with risk reduction material and socio-economic support.

Australia

In Australia, SEXHUM concentrated on the experiences of migrant sex workers under the first Decriminalisation model in New South Wales (since 1995) and under the 1994 licensing Sex Work Act in Victoria. In both states, migrants holding a valid work visa can legally work in the authorized (NSW) or licensed (Victoria) sex industry.

As concerns relative to the trafficking and exploitation of migrant sex workers emerged mostly in relation to Asian cis-women working in non-authorized massage parlours (NSW) or in unlicensed brothels (Victoria), this became the focus of SEXHUM in Australia.

Between 2017 and 2020, SEXHUM conducted a total of 60 qualitative in-depth interviews with 46 majority Asian (82%) migrant sex workers (MSW) from 15 different countries (of which 40% Thai and 19% Chinese); one Aboriginal and two white Australians (for comparative purposes). In terms of gender, amongst the interviewees were 40 cisgender women, four cisgender men, two non-binary persons and seven transgender women. 21 interviews and over 500 hours of ethnographic research took place with Asian cis female migrant sex workers working in unauthorized and unlicensed massage parlours in Sydney and Melbourne, respectively.

Key informant interviews were conducted with sex worker rights organisations Scarlet Alliance, SWOP NSW and Vixen Victoria, as well as with humanitarian organisations such as Salvation Army (NSW), the National Red Cross and Project Respect (VIC), with service providers such as RhED (VIC), with the Law Firm Baker McKenzie (NSW), with Sydney City Council (NSW) and with the Human Trafficking National Coordination of the Australian Federal Police and a NSW human trafficking official.

SEXHUM documented and attended the 2019 slavery trial against Ms Rungnapha Kanbut in Sydney, who was found guilty of several slavery charges and convicted to over 8 years in November 2019 – and interviewed the main victim of the trial (discussed in Macioti et al. 2020).

Trafficking gradually decreased in the last 10 years and composes a stark minority of the experiences of sex workers. In both NSW and Victoria, exploitation by bosses and managers in the form of blackmailing and lack of support with aggressive clients still takes place. Mistrust in the police by sex workers is ripe in both states, but more so in Victoria. In NSW, sex workers benefit from a much larger variety of work options and are therefore less tied to abusive or exploitative work places.

All migrant sex workers with a valid work visa (including temporary visa holders) can legally work in the decriminalised sex industry of NSW. In Victoria, legal (licensed) work options are much less, which increases the contractual power of owners and operators and fosters their engagement in blackmailing workers to get them to follow their rules, as they have much less options to work legally elsewhere.

Migrant sex workers (including those with permanent residence) are particularly vulnerable as they risk deportation if working outside the few licensed options. In

both NSW and Victoria, majority Asian massage parlours offering extra sexual services but not holding council approval (NSW) or a license (Victoria) are targeted by councils, private investigators, law enforcement and immigration raids and controls in the name of finding victims of trafficking and exploitation, but ultimately resulting in issuing fines and even deportation notices and detention for Asian migrant sex workers.

Again, in Victoria sex workers caught in these raids risk more repressive consequences than in NSW, because they are found involved in criminal conduct. In Victoria, these raids are backed and called for by sexual humanitarian neo-abolitionist organisations such as Project Respect and the association of owners and operators. In NSW, peer sex worker organisations are funded to provide an array of essential support to (migrant) sex workers, while in Victoria neo-abolitionist organisations who campaign for the Nordic Model and promote raids are funded and peer only organisations are not.

Asian migrant workers in unauthorised, so-called 'happy ending' massage parlours in Sydney were satisfied with their earnings and diurnal working hours and preferred working in these venues rather than in authorised 'full service' shops as they felt that the cover of being advertised as 'massage only' brought less stigma upon them.

All participants working in the so called 'illegal' sector in both NSW and Victoria had consciously decided to work in these establishments for a number of reasons, including in order to have more agency over the services they want to offer. In both sites council and police checks were what these participants feared most. Because of the absence of criminal laws regulating sex work, in NSW participants holding a valid work visa were less vulnerable to policing and deportation than in Victoria, and conversely more likely to call the police if victims of a crime.

During the 2020 COVID-19 crisis, sex workers who are citizens or permanent residents were entitled and had access to government benefits, though some reported difficulties and delays in receiving the payments. No migrant on any temporary visa has had any access to government benefits.

Migrant communities are helping by providing food and funding to co-nationals and the national sex worker peer organisation, Scarlet Alliance, organised a fund for sex workers ineligible for government financial support. As of July 2020, Victoria saw the majority of COVID-19 related fines, 5 fines were reported in NSW, most against Asian erotic massage parlours.

Australia-specific SEXHUM Publications to date:

Macioti PG, Aroney E., Bennachie C., Fehrenbacher A. E., Giametta C., Hoefinger H., Mai N., Musto J. (2020) 'Framing the Mother Tac: The Racialised, Sexualised and Gendered Politics of Modern Slavery in Australia', *Social Sciences* 9(11):192.

Available online (Open Access): https://www.mdpi.com/2076-0760/9/11/192

Australia-specific policymaking recommendations:

- All Australian states and territories should regulate the sex industry through federal employment and labour law, eliminate all criminal laws relating to sex work, and introduce the full decriminalisation of the sex industry (inclusive of all sectors of consensual sex work, of third parties and of all migrant workers).
- Sex workers labour rights unions and peer organisations should be funded consistently and not only on a project basis.
- Anti-discrimination legislation should include sex workers in all states and territories.
- All sex workers, including independent/private, should be exonerated from having to register in their legal names or to acquire formal authorisation to engage in sex work.
- Smaller, sex worker-led establishments and workers cooperatives should be incentivised as opposed to bigger businesses.
- Compliance with health and safety standards and fair working conditions should be the uttermost priority for the regulatory bodies of the sex industry.
- Greater protections should be in place for sex workers regarding name suppression/protection of identity in the court process, in order to improve access to justice and willingness to engaging in the court process.
- Labour exploitation in the sex industry, including trafficking and forced labour need to be addressed by more detailed and comprehensive labour right legislation and made more accessible through lower threshold support and compensation mechanisms.
- Labour rights and work visa access for migrants should be improved in order to increase their work opportunities in Australia without having to depend on the sponsorship of one employer or partner.
- The identification of victims of trafficking should not take place through an interview with the Australian Federal Police, but through a collaborative approach including non-state actors and peer and in-language support organisations.

NSW-specific policymaking recommendations:

- Developmental authorisations for sexual services premises should be financially accessible and obtainable in all local jurisdictions, to allow workers' access to a greater variety of fairer and authorised work options.
- Independent sex workers working from home and small scale sex worker led businesses operating as cooperatives should be exempt from development application (DA) processes for sex industry land uses.

- Compliance with health and safety standards and better practice working conditions should be the primary consideration for regulatory bodies. The existing Sex Services Premises Planning Guidelines should be updated with a training component to provide evidence-based guidance that supports the original intentions of the NSW reforms. See: Scarlet Alliance current best practice guide and Worksafe NSW: Guidelines for sex services premises
- Consensual sexual services in massage facilities without a DA for sexual services should be fully decriminalised. Condoms should never be used against workers as evidence of non-compliance.

Victoria-specific policy recommendations:

- The licensing regime must be removed through:
    - Repealing the 'Sex Work Act 1994'
    - Repealing the 'Sex Work Regulations 2016'
    - Repealing the 'Sex Work (Fees) Regulations 2014
- Critical components of the removing of the licensing regime:
    - The decriminalisation of all forms of sex work.
    - The removal of laws that mandate HIV/STI testing for sex workers ('Sex Work Act 1994' Part 2, 18A(2), 20A).
    - The removal of laws that criminalise HIV/STI's ('Sex Work Act 1994' Part 2, 19, 20 and 'Sex Work Regulations 2016' Part 2 (6))
    - The removal of laws that mandate safer sex use of condoms and other barriers ('Sex Work Act 1994' Part 2, 18A(1))
    - Spent Convictions legislation should be reformed so that convictions retained by sex workers under prior criminalisation of sex work including under the licensing system are expunged.
    - The register held under Part 3, Division 1 (24) of the 'Sex Work Act 1994', which held the details of sex workers required to register under licensing, should be eliminated and its data expunged.
    - The funding of peer sex workers organisations in Victoria.
    - Extending the protection granted by the 'Equal Opportunity Act 2010' to people engaging in "lawful sexual activity" to all sex workers, not just those in compliance with the licensing system.

France

On 13 April 2016 France approved the Law N° 2016-444 'against the prostitutional system' which is characterised by the neo-abolitionist approach expressed in the Nordic Model. The main aim of the law is to decrease the number of sex workers by shifting criminalization to clients (through fines) and abolishing the previous criminalisation of public soliciting through its 'repressive' component. At the same time the 'social protection component' of the law instituted an exit programme (parcours de sortie) for people who no longer wanted to do sex work, providing them with a monthly financial aid of €360 for social and professional reintegration, and with renewable (three times) temporary residence permit of six months.

In France, SEXHUM undertook 59 qualitative interviews with migrant sex workers and focused on the experiences of Latina trans women (25), Asian (15) and Nigerian cis women (12) because these were the groups most frequently at the centre of public debates about their supposed vulnerability to violence, exploitation and trafficking (in the case of Asian and Nigerian cis women) or marginalized by such debates (trans Latina women). SEXHUM collaborated with Médecins du Monde (Doctors of the World) in the undertaking a large community-based study on the impact of the law that produced 70 qualitative interviews and a survey with 583 sex workers qualitative questionnaires (Le Bail and Giametta 2018).

Overall, the data gathered specifically by the SEXHUM project and in the context of our collaboration with Médecins du Monde show that the law exacerbated the precariousness of migrant (and non-migrant) sex workers. People belonging to the most disadvantaged and racialised groups, such as the ones we have prioritised, have been struggling to meet their basic economic needs even by spending considerably more time working. Most research participants felt that they had less control over their working conditions. They had to accept working with clients and in places they would have refused before the law came into effect because of the falling number of clients.

In many cases our participants felt pressured by the police to report clients. When they were undocumented, they also experienced threats of deportation if they did not comply with these pressures. Finally, our data confirm research on the impact criminalization of clients on Sweden in the 1990s by showing that 2016 law increased rather than reduced the stigma associated with sex work. The increase of stigma acts as a catalyst for the vulnerabilities to violence associated to sex work because it silences sex workers and further discourages them from referring to law enforcement when they are victims of violence.

Most importantly for the main aim of SEXHUM, the implementation of the 2016 Law coincided with the hardening of migration controls according to racialised and gendered criteria of vulnerability targeting Chinese and Nigerian cis-women and neglecting Latina trans women as victims of violence, exploitation and trafficking (Calderaro and Giametta 2019).

Although French sexual humanitarian rhetoric frames Chinese and Nigerian women as ideal, silent victims of male-dominated mafias and criminals from their

respective communities, they did not have a preferential treatment in relation to their allocation of social protection. Moreover, Chinese women tend not to report having been victims of theft because their work and living arrangements with other colleagues can be constructed as controlling for gain and pimping (proxénétisme) according to French law. In a parallel fashion, although Nigerian women in France are portrayed by racialised political and media discourse as the main potential recipients of the exit programmes for being ideally naïve and innocent victims they tended to be rejected from such programmes, as they were not considered genuinely willing to stop sex work.

The realities of Chinese and Nigerian women expose the racialised and gendered nature of the criteria of victimhood operationalized by sexual humanitarianism, which deny the authenticity of racialized subjects and the credibility of their 'stories' by constructing them as fraudulent. These same racialised and gendered criteria of victimhood marginalised the experiences of violence and abuse of Latina trans women, who were not supported by sexual humanitarian concerns or interventions.

Although they were respectively over-targeted and neglected by sexual humanitarian concerns, Chinese and trans Latina migrant women have been paying the consequences of the criminalization of clients with their lives, as they are forced to work in further isolated locations in order to escape police control. This paradoxical situation exposes the politics of bordering that shaped the implementation of the 2016 law. Despite its rhetorical aim to abolish the French 'prostitutional system', it actually made such system worse for the most vulnerable strata of the sex working population. Most racialised migrant sex workers were excluded from its planned benefits while the neo-abolitionist celebration, or neglect, of their supposed and real vulnerabilities to exploitation ended up by legitimising harmful anti-immigration and anti-prostitution discourses and interventions.

France-specific SEXHUM publications to date:

1. Calderaro, C. and Giametta, C. (2019) '"The Problem of Prostitution": Repressive Policies in the Name of Migration Control, Public Order, and Women's Rights in France', *Anti-Trafficking Review*, 12: 155-171.

Available online (Open Access): http://www.antitraffickingreview.org

2. Le Bail, H. & Giametta, C. (2018) 'What Do Sex Workers Think about the French Prostitution Act? A Study on the Impact of the Law from 13 April 2016 Against the 'Prostitution System' in France'. Paris: Médecins du Monde. Available online:

https://www.medecinsdumonde.org/en/actualites/publications/2018/04/12/study-impact-law-13-april-2016-against-prostitution-system-france

France-specific policymaking recommendations

Decriminalization and Labour Rights

- Sex work should be fully decriminalized. In the French context this means repealing clients' criminalization, procurement laws used against third parties and sex workers' themselves.
- Local measures cracking down on sex work (orders prohibiting the exercise of sex work, public nuisance orders, indecent clothing orders, and parking bans) should also be repealed.
- Sex workers should have full access to labour rights including to create and manage cooperatives, to advertise for their services, to be protected by health and safety measures, to benefit from pension rights, social protection, and have access to labour courts and tribunals.

Anti-trafficking Policies and Interventions

- The government should adopt a national referral mechanism for combating trafficking in human beings in accordance with the opinion of the National Consultative Commission on Human Rights adopted on April 28, 2020.
- Anti-trafficking interventions should separate themselves from anti migration and anti sex work law enforcement if they want to reduce the vulnerability to exploitation of the people they aim to support.
- Access to protection and support for victims of trafficking should not be conditional to collaboration with law enforcement.
- A residency permit with sex work authorization should be available to migrants working in the sex industry. This should not mention sex work or 'adult entertainment' in order to avoid further stigmatization and victimization of migrants.

Stigma, Discrimination and Abuse

- Sex workers and their organizations should be involved in the development, implementation and evaluation of all policies that affect them.
- Since sex workers are part of different minority groups, policies must effectively address all structural discriminations such as sexism, racism, and transphobia.
- The decriminalization of sex work should be accompanied by anti-discrimination measures and socio-economic resources supporting the access of sex workers, including migrants, to healthcare, housing, employment, education, financial and insurance services, parenthood rights and other key dimensions of social life.

- Sex workers led organizations should have access to public funding as they provide crucial services by reaching out to sex workers and provide targeted support.
- Sex workers' self-defence programmes and online reporting mechanisms against violence should be supported and appropriately funded.
- Sex workers should be able to benefit from assistance measures in the context of domestic violence and associations must ensure that victims of domestic violence are well received, whatever their gender, sexual orientation, and profession.

New Zealand

In New Zealand, the SEXHUM project focused on the impact of the decriminalising Prostitution Reform Act 2003 (PRA) on the lives and rights of migrant sex workers. Under the PRA, actions such as soliciting and brothel keeping have no criminal sanctions. Sex workers can work on the street, in managed brothels, or manage themselves and work from their own home, or from an apartment hired by them for work. While any person who manages even one sex worker is required to obtain an operator certificate (s34, PRA), sex workers who are self-managing, with no one person in charge, can work in groups of up to four sex workers (s5, PRA), depending on local bylaws and district plans relating to employment at home (s12, PRA).

However, the PRA makes it illegal for migrants to work in the sex industry. Its Section 19, which was added at the last moment during the Committee Stages of the Bill as an Anti-Trafficking clause, specifically states that no person may come to NZ with the intention of becoming a sex worker, brothel owner, or operator if they hold a temporary visa, such as: student visa, work visa, working holiday visa, skilled migrant visa, or visitor visa. Accordingly, people who come to New Zealand with the intention of being a sex worker or brothel operator or owner will be refused entry to New Zealand.

The main aim of the SEXHUM project in New Zealand has been to understand whether and in what way Section 19 actually protected migrant sex workers from exploitation and trafficking by gathering and analysing their experiences of migration and work. Of the 58 interviews completed in New Zealand, 43 are with People of Colour, 29 of whom are from Asian countries, with the majority (12) from mainland China.

Our data confirm previous studies showing there was no evidence of trafficking. At the same time, our data confirms that section 19 of the PRA, brought in to prevent trafficking, leaves migrant sex workers more vulnerable to abuse and exploitation (including trafficking) because it inhibits them from reporting to the police out of a fear of deportation.

Our findings also show that Section 19 prevents migrant sex workers from approaching medical professionals, with many sex workers stating they would not see a doctor in New Zealand, but would prefer to travel back to their home country, even if it was just for a small matter.

During the arc of the project (2016-2020), clinical key informants have indicated a substantial decrease of migrant sex workers' attendance of sexual health clinics, which may be strongly related to an increase in immigration controls and deportations. The latter became more prevalent since the announcement of the coalition government in October 2017, after which Immigration New Zealand (INZ) increased their investigations into migrant sex workers and their raids on brothels, as well as their bordering efforts by refusing suspected sex workers entry and preventing them from boarding aircrafts bound for New Zealand.

Our findings demonstrate that racialised categories and hierarchies of assumed vulnerability are framing immigration controls targeting predominantly Asian cis women working in the sex industry in New Zealand. These racialised assumptions

impact very negatively on the rights and lives of migrant sex workers by exacerbating their exploitability and deportability. Most importantly, our findings strongly suggest that their full inclusion within the protection guaranteed by the PRA is the best way to reduce their vulnerability to exploitation and trafficking.

New Zealand-specific policymaking suggestions:

SEXHUM findings in New Zealand strongly support the 2018 statement of the United Nations Committee for the Elimination of Discrimination Against Women (CEDAW) that "migrant women engaged in prostitution may be exposed to exploitation and are at risk of trafficking, owing to the ban on engaging in prostitution imposed on migrants, which prevents them from reporting abuse for fear of deportation". As a result, the CEDAW Committee recommended that Section 19 of the PRA be amended, "with a view to reducing its negative impact on migrant women" and "and adopt measures aimed at preventing discrimination against women in prostitution in the State party, with a view to preventing and addressing the factors and structures that render migrant women vulnerable to trafficking" (CEDAW/C/NZL/CO/8, paras 27(a), 28(a) & (b), 2018, pp. 8-9).

An interdepartmental committee consisting of representatives from the Ministry of Business, Immigration and Employment (Immigration and WorkSafe), Ministry of Women's Affairs, Police, and the Ministry of Health and community partners such as NZPC (Aotearoa New Zealand Sex Workers' Collective), Shakti, and the Anglican Church should be formed to ensure the rights of migrant sex workers are protected and upheld. Specifically, this Committee should examine ways in which the recommendations from the CEDAW Committee may be upheld by:

- Repealing Section 19 of the PRA.
- Removing the ban on temporary migrants, including students, entering contract employment or working for themselves in the sex industry. (rather than only being able to work for an operator, which may increase vulnerability to exploitation).
- Separating immigration control from the enforcement of the PRA to address the needs of migrant workers and protect them from violence and exploitation.
- Removing the link between a work visa and a specific employer, allowing migrants to change employers if they are, or fear, being exploited by an employer.
- Introducing a work visa for sex work that people can apply for if they intend to work in the sex industry. The name of this visa should not mention sex work or 'adult entertainment' as this may affect the ability of people to travel to countries where sex work is stigmatized and criminalized, including their countries of origin.
- People on visitor's visas found working in the sex industry found in breach of their visa conditions should be encouraged to apply for a specific work visa, rather than be deported.

- Making sure that those facing deportation for breach of their temporary visa do not have sex work recorded on the Deportation Liability Notice or other paperwork related to their deportation in order to avoid outing them as sex workers and the related stigma that attracts.

United States

In the United States SEXHUM focused on the realities of New York City and Los Angeles. The States are the most criminalized context of the SEXHUM project as all forms of sex work and all parties involved are criminalized (except in some small counties in Nevada).

In the US, the complex relationship between migration, sex work and trafficking is framed by a carceral regime that became increasingly repressive during the Trump administration. In this context, sex work was targeted specifically through sexual humanitarian interventions aiming to stop all sex work through criminal law.

The criminalization of online sex work was intensified in 2018 with the bipartisan passage of SESTA/FOSTA in Congress 'anti-trafficking' legislations, respectively, which pushed sex workers offline and exposed them to increased precariousness and vulnerability to abuse, including by law enforcement, by making websites liable for third party advertisements for sexual services on their platforms.

The context of the US is characterised by sexual humanitarian dynamics whereby the arrest of sex workers and victims of trafficking becomes part of their referral to social services and court supervision. This process encompasses the establishment in 2013 of Human Trafficking Intervention Courts (HTICs) in NYC which offer people (mostly cis women) charged with prostitution the possibility of having their charges dismissed or sealed provided they complete mandatory service sessions and they do not get re-arrested within 6 months.

Our findings confirm that the long court processes and social service sessions do not match the economic needs and priorities of sex workers and that the (sexual) humanitarian ethos of HTICs is structurally embedded in the enforcement of criminalizing anti-prostitution laws. Although HTICs do not exist in LA, there are similar Law Enforcement Assisted Diversion (LEAD) programs, which are overseen by the LA County Sheriff's Department Human Trafficking Bureau. In LA too, sexual humanitarian understandings of victimhood centred on the experiences of cis women tend to exclude trans people from being recognised as victims of trafficking and from the associated forms of humanitarian protection.

SEXHUM findings also show that the limited forms of sexual humanitarian control, protection and support provided by HTICs and LEAD programmes were eroded by the anti-migration measures introduced by the Trump administration. In 2017, we witnessed the intrusion of ICE officers inside the buildings of the Queens County Criminal Justice Court, where many undocumented migrant sex workers and victims of trafficking were defending their cases. In this context of 'extreme bordering' (Mai et al. 2021) we focused on the migrant trans Latina population as they are specifically affected by carceral sexual humanitarian interventions while also being neglected by the protective services offered to victims of trafficking (Fehrenbacher et al 2020; Hoefinger et al 2020).

Sex workers and trafficked persons in the sample included 30 transgender, 25 cisgender, and 3 non-binary/gender-non-conforming people between the ages of 19 and 70. Participants hailed from 16 countries of origin, including 21 participants who were born in the US and 37 migrants born outside of the US from Latin

America, the Caribbean, Africa, or Asia. The largest number of migrants in the sample were from Latin America.

Our data in NY and LA show that a large number of trans Latina sex workers were arrested by anti-prostitution law enforcement as they were assumed to be sex workers for being out in the street: simply for 'walking while trans'. Many participants were detained by immigration, in prisons and jails where they were misgendered and ridiculed for speaking Spanish and discriminated against in relation to both their race and gender identity. Some of them experienced sexual assault, torture-like treatments, and were denied hormonal therapies.

At the same time, some initiatives seem to respond well to the priorities and needs of migrant sex workers. Health-related initiatives such as the Community Health Network in New York take a de-stigmatizing approach to sex work and focus on harm reduction and prevention, with particular reference to trans Latina women. Community-based projects that provide direct services for legal assistance, such as Legal Aid Society and the Sex Work Project at the Urban Justice Centre in NY also support the priorities and needs of migrant sex workers by helping migrants secure asylum, T-Visas, and U-Visas. Community-focused legal groups such as the SOAR Institute support well trafficking survivors by trying to expand Vacaturs Law allowing them to clear their criminal records, reduce stigma and secure employment and housing.

Finally, community-based peer support, such as the TransLatina Coalition and SWOP-LA in Los Angeles and the TRANSgrediendo Collective, Lysistrata, Red Canary Song and GLITS in New York provide a key safety net and act as buffers against the onslaught of repressive legislation and general deteriorating conditions for sex workers in the US in times of 'extreme bordering'.

These peer-support groups played a key role in supporting the most precarious members of their communities during the COVID-19 pandemic, which was key to their survival as many of our trans research participants explained that they resorted to sex work because they were excluded from mainstream legal forms of employment for being trans.

The experiences of our respondents show the negative economic and health consequences caused by the 'extreme bordering' of sexual humanitarian, anti-trafficking interventions and by the criminalization of sex work. They also strongly suggest the need for sexual humanitarian and anti-prostitution law enforcement interventions to be defunded and for peer-based health, legal and community initiatives to receive broader public support and funding instead (Hoefinger et al. 2020).

US-specific SEXHUM publications:

1. Hoefinger, H., Musto, J., Macioti, PG, Fehrenbacher, A., Mai, N., Bennachie, C. and Giametta, C. (2020) 'Community-Based Responses to Negative Health Impacts of Sexual Humanitarian Anti-Trafficking Policies and the Criminalization of Sex Work and Migration in the US', *Social Sciences* 9(1):1.

Available online (Open Access):https://www.mdpi.com/2076-0760/9/1/1

2. Fehrenbacher, A., Musto, J., Hoefinger, H., Mai, N., Macioti, PG, Giametta, C. and Bennachie, C. (2020) 'Transgender People and Human Trafficking: Intersectional Exclusion of Transgender Migrants and People of Color from Anti-trafficking Protection in the United States', *Journal of Human Trafficking*, 6:2, 182-194, DOI: 10.1080/23322705.2020.1690116

3. Musto, J., Fehrenbacher, A., Heidi, H., Mai, N., Macioti, PG, Bennachie, C., and Giametta, C. (2021) 'Anti-Trafficking in the Time of FOSTA/SESTA: Networked Moral Gentrification and Sexual Humanitarian Creep', *Social Sciences*, forthcoming.

US-specific policy making suggestions:

Decriminalisation, Discrimination and Labour Rights

- All U.S. states and territories should legally reframe the sex industry by:
    - fully decriminalizing sex work
    - allowing sex workers to access state employment and labour laws and contracts,
    - eliminating all criminal laws relating to the sale and purchase of sexual services, inclusive of all sectors of consensual sex work, of third parties and of all migrant workers, regardless of their visa status,
    - allowing sex work to take place in people's private homes; in existing massage parlours; and in hotels, motels, and short-term rental properties,
    - expunging all prostitution-related criminal offenses from the records of people in sex trades both at state and federal level.
- In housing, employment healthcare and financial and insurance services, anti-discrimination clauses should be put in place to prevent prior or current records from being used to deny equal treatment.
- Laws banning loitering for the purposes of prostitution, AKA "Walking While Trans Ban," should be struck down, as well as the use of condoms as evidence of prostitution.
- The FOSTA-SESTA Act (Public Law No: 115-164), which amends the Communications Act of 1934, to hold print publications and internet platforms liable for any content on their website that may facilitate sex trafficking, should be repealed because its passage has increased the vulnerability of sex workers to harm and discrimination.

- Work visa access for all migrants should be improved, especially in domestic work and agricultural sectors, increasing their work opportunities in the United States without having these depending on the sponsorship of one employer or partner.
- New policies should be introduced fighting specific forms of discrimination targeting sex workers in relation to their access to mainstream forms of labour, banking and insurance services, temporary (hotels) and permanent housing (currently hampered by laws on procuring) and parenthood rights.

Law Enforcement

- All local, state, and Federal law enforcement agencies, including Immigration and Customs Enforcement, should be held accountable and externally reviewed on an ongoing basis for their conduct in investigations involving people suspected of trading sex for resources.
- Complaints reported by sex workers to law enforcement should be met with the same respect that would be given to any other crime victim and investigated without penalty to victims.
- Separation between criminal proceedings and immigration enforcement must be maintained in order to enhance sex workers' trust in law enforcement and access to justice.
- Funding should be redirected from vice units and the policing of sex work towards social services for people in sex trades, including housing, employment, education, financial management, counselling, confidential testing and health services, which should be made available to all people in sex trades without arrest or involvement in the criminal justice system.

Trafficking and Anti-Trafficking

- Labour exploitation in the sex industry, including trafficking and forced labour, need to be addressed by more detailed and comprehensive labour rights legislation and more accessible and lower threshold support and compensation mechanisms.
- Immigration and sex work law enforcement compliance controls should not be carried out in the name of finding presumed victims of trafficking or exploitation.
- The identification of victims of trafficking should not take place by an interview with law enforcement, but by a more collaborative approach including non-state actors and peer and in-language support groups.
- Trafficking victims should not be arrested or held in detention. Instead, they should be directly referred to safe housing, service providers, and attorneys who can assist them.
- Trafficking victims should not be compelled to cooperate with law enforcement.

- Trafficking victims should not have to collaborate in the arrest of a trafficker, in order to receive support, protection or T-visa status to remain in the country.
- Trafficking victims should be offered shelter, trauma-informed healthcare, including mental health and voluntary placement in substance abuse treatment, and sustainable economic support in the form of job training and successful job placement, or paid apprenticeship.
- Language interpretation services need to be made available during arrest and court process for investigations involving suspected sex trafficking that may negatively impact migrants involved in sex trades.

Specific Policymaking recommendations for Decriminalization in New York State:

- Passing the 'Stop Violence in Sex Trades Act' (S06419 / A08230)
- Repealing the 'Walking While Trans' Law (S2253 / A654)
- Expanding criminal record relief for trafficking survivors (S04981/A0698)

Specific Policymaking recommendations for Decriminalization in California

- Repeal the California penal code (PEN) sections directly criminalizing sex work, and vacate all convictions based on those sections.
- Repeal PEN section 647(B) prostitution and solicitation, PEN section 653.23 supervising or aiding a prostitute, PEN sections 266h and 266i pimping and pandering, and PEN section 653.22 loitering to commit prostitution.
- Revise PEN sections 372, 373a, and 647(A) - relating to criminal nuisance liability and lewd conduct, such that criminal liability cannot attach under those statutes merely due to someone's participation in the sex trade as it has historically been practiced.
- Vacate all criminal records and convictions based on the repealed and amended statutes at both state and federal levels.