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anti trafficking review

Special Issue – Home and Homelessness

Editorial: Who Counts? Issues of definition in anti-trafficking and housing research and action

Thematic Articles

Takatāpui/LGBTIQ+ People's Experiences of Homelessness and Sex Work in Aotearoa New Zealand

On the Streets: Deprivation, risk, and communities of care in pandemic times

Of House and Home: The meanings of housing for women engaged in criminalised street-based sex work

When the Home Is Also the Workplace: Women migrant domestic workers' experiences with the 'live-in' policy in Singapore and Hong Kong

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Shelter Homes - Safe haven or prison?

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ANTI-TRAFFICKING REVIEW

Special Issue
HOME AND HOMELESSNESS

Issue 20, April 2023

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Editorial: Who Counts? Issues of definition in anti-trafficking and housing research and action

Katie Hail-Jares

Abstract

The relationship between homelessness and contemporary forms of slavery and human trafficking is well established. Early research often took this relationship for granted and was frequently divorced from housing policy or theory. Interdisciplinary research has continued to ignore how the housing sector struggled with its own issues around defining homelessness and what the dominant definition (the United States' HUD-Rossi definition) meant for our understanding of homelessness. This Editorial to a Special Issue of *Anti-Trafficking Review* on 'home and homelessness' discusses the HUD-Rossi definition, its impact on research, both domestically and abroad, and the recent rejection of 'roof-based' for a return to socio-cultural definitions. With these socio-cultural definitions in mind, this special issue introduces the research touching upon the intersection of housing and anti-trafficking in three categories: 1) listening to traditional subjects of anti-trafficking research and their views on housing, homelessness, and homes; 2) illustrating how state housing and immigration policies encourage exploitation; and 3) critiquing how housing provided by the anti-trafficking and criminal justice sector often falls short in supporting a home-like environment.

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Introduction

In January 2023, shortly after the call for papers for this special issue of *Anti-Trafficking Review* closed, the United Nations (UN) Special Rapporteur on contemporary forms of slavery announced that his next thematic report to the UN Human Rights Council would be on homelessness and its role as a

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'cause or consequence' of contemporary forms of slavery and trafficking.[1] The UN report—and this special issue—come at a critical time for reflecting upon housing and homelessness globally. Despite being one of the most basic of human needs, housing has become increasingly commodified.[2] In the midst of this commodification, conversations about housing have often changed as well, as Scott Leckie noted in his 1982 treatise, moving away from the early language of 'rights' to instead one of 'needs'.

And that need is perhaps greater than ever. Many countries are experiencing housing crises, characterised by the loss of affordable houses and skyrocketing rents in many cities.[3] In Brazil, homelessness has increased by 16 per cent since 2021. Major Brazilian cities are facing a shortfall of 5.8 million homes, and *favelas*[4] have increased in size by as much as 56 per cent in regional areas.[5] Similarly, the Philippines faces a shortfall of 6.8 million homes,[6] despite the House of Representatives ordering the Department of Human Settlement and Urban Development to 'immediately undertake the inventory of idle government lands and fast track the development and disposition of these properties for socialised housing' back in 2021.[7] However, the housing crisis is not contained to countries

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1 Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, 'Call for Input on Homelessness as a Cause and a Consequence of Contemporary Forms of Slavery', Office of the UN High Commissioner for Human Rights, 2023, retrieved 8 April 2023, https://www.ohchr.org/en/calls-for-input/2023/call-input-homelessness-cause-and-consequence-contemporary-forms-slavery.

2 S Leckie, 'Housing as a Human Right', *Environment and Urbanization*, vol. 1, issue 2, 1989, pp. 90–108, https://doi.org/10.1177/095624788900100210.

3 V Masterson, 'What Has Caused the Global Housing Crisis – and How Can We Fix It?', World Economic Forum, 16 June 2022, https://www.weforum.org/agenda/2022/06/how-to-fix-global-housing-crisis.

4 Often translated to 'slums', *favelas* refer to a wide variety of poor and working-class neighbourhoods in Brazil. Houses are often built by residents and have a 'handmade' quality about them. *Favelas* have an extensive history and culture; to read more, I suggest two books by J E Perlman, *The Myth of Marginality: Urban poverty and politics in Rio de Janeiro*, University of California Press, Berkeley, 1980, and its follow-up, *Favela: Four decades of living on the edge in Rio de Janeiro*, Oxford University Press, Oxford, 2010.

5 T Lima, 'Homelessness in Brazil Went Up 16%. Read our presidential candidates' proposals to combat the housing crisis', RioOnWatch, 29 September 2022, https://rioonwatch.org/?p=72060.

6 I Isip, 'Housing Crisis Worsened by Rising Costs', *Malaya Business Insight*, 25 November 2022, https://malaya.com.ph/news_business/housing-crisis-worsened-by-rising-costs.

7 ABS-CBN News, 'House of Reps. Declares Housing Crisis in Philippines', *ABS CBN News*, 31 August 2021, https://news.abs-cbn.com/news/08/31/21/house-of-reps-declares-housing-crisis-in-philippines.

in the global south; Housing Anywhere's quarterly International Rent Index report found that 22 of 24 European cities saw an increase in rental prices between 2021 and 2022, with an average increase of 14.3 per cent. UN-Habitat estimates that by 2030, 3 billion people—or about 40 per cent of the world's population—will lack adequate housing. In the current situation, 100 million people globally are homeless, and another 2 billion people are living in 'conditions that are harmful to their health, safety, and prosperity'.[8]

Defining Homelessness: The legacy of the HUD-Rossi definition

Among these harms is the ongoing threat of contemporary slavery, human trafficking, and exploitation to people experiencing homelessness and housing instability. The relationship between housing and trafficking is unsurprising. However, early 'anti-trafficking' research often took the relationship between housing and trafficking status for granted. Such research almost exclusively sampled *from* homelessness shelters or streets, without considering whether living situations were independently related.[9] From there, this research followed a similar narrative: a woman or young person experiencing homelessness exchanges sex or engages in sex work to maintain housing. This behaviour is framed as trafficking, sexual slavery, or commercial sexual exploitation. Despite its prevalence among the sample, housing (or lack thereof) is not discussed as a cause of trafficking, instead focusing on childhood sexual trauma, traffickers, or other intra- or interpersonal attributes.[10] This legacy has largely been taken up by prostitution prohibitionist scholars within the United States, who continue to oversample from homeless or housing-insecure populations, focus on sexual exploitation, and rarely discuss housing availability.

Perhaps just as frustrating, this traditional vein of research has also been divorced from considerations of housing policy or housing theory. Anti-trafficking scholars may recognise the history of housing policy and its debate over central definitions, as it is similar to our own disciplinary disagreements. In the 1980s, arguments over what it meant to be homeless had come to a head; the definition of homelessness itself was in flux. Sophie Watson, in her feminist examination of homelessness

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8 No author, 'Housing', UN Habitat, n.d., https://unhabitat.org/topic/housing.

9 K R Choi, 'Risk Factors for Domestic Minor Sex Trafficking in the United States: A literature review', *Journal of Forensic Nursing*, vol. 11, no. 2, 2015, pp. 66–76, https://doi.org/10.1097/JFN.0000000000000072.

10 K A Hogan and D Roe-Sepowitz, 'LGBTQ+ Homeless Young Adults and Sex Trafficking Vulnerability', *Journal of Human Trafficking*, vol. 9, issue 1, 2020, pp. 63–78, https://doi.org/10.1080/23322705.2020.1841985.

famously suggested that 'the concept of homelessness is not a useful one and should be rethought or abandoned.'[11] Watson was among the first scholars that argued traditional definitions of homelessness, that equated it with rooflessness, were harmful to women, children, and families who were often able to secure a 'roof' but not a 'home'.[12]

However, within the United States, the 1980s also ushered in the arrival of conservative social policies. These conservative social policies coincided with alarmist and NIMBY-ist[13] rhetoric around homelessness. American cities were growing in population size, and, possibly, so too were the number of people sleeping rough.[14] Eventually, this rhetoric led the United States Department of Human and Urban Development (HUD) agreeing to conduct a census of people experiencing homelessness and establish a definition for whom to count. Their definition—colloquially referred to as the HUD-Rossi definition—was a sharp turn away from a burgeoning focus on 'home'lessness and instead a swift return to rooflessness. The HUD-Rossi definition hinged upon visibility (including people who slept 'in the streets, parks, subways, bus terminals, railroad stations, airports, under bridges… or any other public or private space that is not designed for shelter')[15] and engagement with services (those who were sleeping in 'public or private emergency shelters' and anywhere where 'temporary vouchers are provided' to secure beds).[16]

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11 S Watson, 'Definitions of Homelessness: A feminist perspective', *Critical Social Policy*, vol. 4, issue 11, 1984, pp. 60–73, p. 70, https://doi.org/10.1177/026101838400401106.

12 Indeed, in rereading many papers that focus on 'entry into prostitution' from the Silas and Pines era, almost none refer to the women interviewed as homeless; instead, they are runaways. Such subtle language reinforces this notion that women are not ever homeless, but just willfully living on the streets.

13 NIMBY is an acronym for 'Not In My BackYard'. NIMBYism refers to the attitude that new social services or developments—such as homeless shelters, drug rehabilitation programmes, etc.—should not be opened in one's neighbourhood. Some critiques have noted that NIMBY is almost always used in the pejorative (as it is here) and without a tangible definition. To read a full account of such a critique, I recommend: M Wolsink, 'Invalid Theory Impedes Our Understanding: A critique on the persistence of the language of NIMBY', *Transactions of the Institute of British Geographers*, vol. 31, issue 1, 2006, pp. 85–91, https://doi.org/10.1111/j.1475-5661.2006.00191.x.

14 This is a British English term for 'sleeping outside without cover'. A person sleeping on a park bench is sleeping rough.

15 As cited in C Chamberlain and D MacKenzie, 'Understanding Contemporary Homelessness: Issues of definition and meaning', *Australian Journal of Social Issues*, vol. 27, issue 4, 1992, pp. 274–297, p. 284, https://doi.org/10.1002/j.1839-4655.1992.tb00911.x.

16 *Ibid.*

The results led to a dramatic and instant drop in the *official* estimate of people experiencing homelessness within the United States. A study by Hombs and Snyder in 1983 suggested 3 million people in the US were experiencing homelessness, when using a socio-cultural definition.[17] The HUD-Rossi definition, and the ensuing report, released in 1984, found instead 250,000 people were experiencing homelessness.[18] It also established not only who was counted during the homelessness census, but who *mattered.* As Chamberlain and Mackenzie noted, this decision was deliberate and ignored lived knowledge from within the housing and homelessness sector:

> Using the HUD-Rossi approach [young people who move frequently between different sleeping arrangements] would not be counted as homeless much of the time, because they are neither consistently on the streets nor in emergency accommodation. Their homelessness is characterized by continual insecurity and frequent moves from one form of temporary shelter to another, including stays with friends and occasional nights in boarding houses paid for by themselves. But it does not mean they cease to be homeless when they are in such places. However, the HUD-Rossi approach would exclude them […]. This is no minor technicality […]. This is the typical pattern [of young people]. Therefore, the HUD-Rossi method of enumerating the homeless population must miss a substantial number of young people […] because they will not be in the 'right' places to be counted.[19]

The HUD-Rossi definition would linger for decades, bypassing and ignoring the lived realities of people experiencing homelessness, and instead promoting a narrative of homelessness that was visible and engaged (with services). With the HUD-Rossi definition, governments were able to ignore less visible, but more common, types of homelessness, like couchsurfing, single room occupancy tenancy, and severe overcrowding, because these forms of accommodation did not count.

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17 M E Hombs and M Snyder, *Homeless in America: A forced march to nowhere,* Community for Creative Non-Violence, Washington, DC, 1983.

18 United States Department of Housing and Urban Development, *Report to the Secretary on the Homeless and Emergency Shelters,* HUD Office of Policy Development and Research, Washington, DC, 1984.

19 Chamberlain and MacKenzie, p. 286.

The parallels between the political wrangling over defining homelessness and those in the anti-trafficking arena are stark.[20] But for interdisciplinary research, the HUD-Rossi definition also had a chilling effect. Scholars often found it difficult to expand the definition of homelessness beyond those sleeping rough or in shelters, as it conflicted with what American reviewers, editors, and policymakers viewed as 'actual' homelessness. The result is that many adjacent bodies of research, including the anti-trafficking realm, have struggled to advance beyond these very roof-centric definitions and embrace more critical definitions of homelessness.

Moving Away from 'Roof'lessness to 'Home'lessness

In the past 40 years, many government bodies have moved beyond the HUD-Rossi definition. In 2012, for example, the Australia Bureau of Statistics formed the Homelessness Statistics Reference Group (HSRG) to formalise a definition of homelessness that was more reflective of lived realities. The HSRG included people with lived experience, service providers, and academics. As part of their process, they reviewed dozens of case studies, and then discussed if the situation depicted was homelessness. Eventually, the HSRG reached a consensus that, for the Australia Bureau of Statistics, homelessness would be rooted in a socio-cultural definition:

> The ABS definition of homelessness is informed by an understanding of homelessness as 'home'lessness, not rooflessness. It emphasises the core elements of 'home' in Anglo-American and European interpretations of the meaning of home as identified in research evidence. These elements may include: a sense of security, stability, privacy, safety, and the ability to control living space. Homelessness is therefore a lack of one or more of the elements that represent 'home' […] When a person does not have suitable accommodation alternatives they are considered homeless if their current living arrangement: [1] is in a dwelling

[20] For a history of the 'wrangling' over these definitions—and the ensuing factions—see: M Ditmore and M Wijers, 'The Negotiations on the UN Protocol on Trafficking in Persons', *Nemesis,* issue 4, 2003, pp. 79–88, and M Wijers, 'Purity, Victimhood and Agency: Fifteen years of the UN Trafficking Protocol', *Anti-Trafficking Review*, issue 4, 2015, pp. 56—79, https://doi.org/10.14197/atr.20121544. The result of these discussions led to several types of definitions—one based on the presence or absence of certain characteristics innate to trafficking (e.g., presence of fraud, force, or coercion), others primarily focused on cross-border movement, and finally, statutes that included age-based criteria. In these latter jurisdictions, which include the US, and increasingly Europe, the inclusion of age-based criteria artificially creates victims and survivors of trafficking, making the numbers dramatically *increase*, and thereby demanding more political attention (and funding).

> that is inadequate; or [2] has no tenure, or if their initial tenure is short and not extendable; or [3] does not allow them to have control of, and access to space for social relations. […] While homelessness is not a choice, some people may choose to live in situations that might parallel the living situations of people who are homeless. For example, living in a shed while building a home on their own property, or on holiday travelling and staying with friends. These people have choice because they have the capacity to access other accommodation that are safe, adequate and provide for social relations.[21]

This return to socio-cultural definitions of homelessness has changed how both the Australian government and media frame the housing crisis. Media have increasingly highlighted how the loss of access to affordable housing has led to a spike in homelessness, as young people begin to couchsurf or live out of their cars.

Other countries have gone even further, arguing that the debates over rooflessness and homelessness ignore the real issue—that housing should be a human right. In 2000 (and again in 2010), Brazil codified a right to housing in its constitution—'Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute, are social rights as set forth by this Constitution'.[22] The Brazilian Constitution further establishes that local, state, and federal governments should work together to collaboratively fund social housing so that it is available to all. This right to housing has been used as a successful argument before the Brazilian Supreme Court in halting evictions, particularly during periods of national crisis, such as the COVID-19 pandemic.[23] Brazil has a powerful and fascinating history of civil disobedience to reassert this right to housing; most often led by Black mothers, it included organised 'squatting' campaigns.[24] As these campaigns illustrate, though, even countries with enshrined rights to housing face difficulty in forcing their governments to act. As the Brazilian example illustrates, the question of 'who

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21 Australian Bureau of Statistics, *Information Paper – A statistical definition of homelessness 4922.0,* ABS, Canberra, 2012.

22 Brazil's Constitution of 1988 with Amendments through 2014, Chapter 2, Article 6, http://constituteproject.org/constitution/Brazil_2014.pdf. See also the Federal Senate of Brazil's English translation for the version quoted here: https://www2.senado.leg.br/bdsf/bitstream/handle/id/243334/Constitution_2013.pdf.

23 Supremo Tribunal Federal, ADPF 828, 2021, https://portal.stf.jus.br/processos/detalhe.asp?incidente=6155697.

24 See this excellent multimedia article on current efforts in Sao Paulo for more information: M Alberti, 'Occupy to Survive: Brazilian squatters fight for housing rights', *Al Jazeera*, 29 July 2022, https://www.aljazeera.com/features/longform/2022/7/29/occupy-to-survive-brazilian-squatters-fight-for-housing-rights.

counts' is still relevant, even when such rights are formally recognised. Instead, as several leaders of the movement note, their voices are routinely ignored or silenced because of who they are.

This Special Issue

Despite this return to more progressive socio-cultural definitions within homelessness theory and coordinated community action, their impact on research has been slow. This Special Issue hopes to start that discussion, encouraging critical examination and discussion of housing and homelessness, and its relationship to trafficking. The authors in this volume do that in three ways: 1) listening to traditional subjects of anti-trafficking research and their views on housing, homelessness, and homes; 2) illustrating how state housing and immigration policies encourage exploitation; and 3) critiquing how housing provided by the anti-trafficking and criminal justice sector often falls short in supporting a home-like environment.

Individuals' Voices on Housing, Home, and Homelessness

As mentioned, research on trafficking and homelessness has focused on women or young people and their engagement in sex work. In this early scholarship, homelessness was framed as inevitable and wholly negative. However, it often ignored or discredited the voices of people experiencing homelessness and the way they negotiated housing, including through survival sex or sexual exchange. When researchers labelled such experiences as 'sex trafficking', they often did so while ignoring or invalidating the voices of youth who clearly differentiated coercion from circumstance (or choice). The research in this section revisits these traditional subjects of trafficking-homelessness work but with a community-informed lens that lifts up the voices of their participants.

For example, in their paper, 'Takatāpui/LGBTIQ+ People's Experiences of Homelessness and Sex Work in Aotearoa New Zealand', **Brodie Fraser, Elinor Chisholm, and Nevil Pierse** explore queer people's experiences with sex work and sexual exploitation, how they differentiate between the two, and how social policy both fails and empowers them (within the context of sex work decriminalisation) as a way to secure housing.

Martha Cecilia Ruiz Muriel, in her article, 'On the Streets: Deprivation, risk, and communities of care in pandemic times', turns her consideration to irregularised migrants and sex workers living in Ecuador's southern border province of El Oro, which has historically been associated with risks of trafficking and exploitation. Ruiz Muriel examines how, during the COVID-19 pandemic, the Ecuadorian government ignored these 'street people', prompting them to create homes and communities of care, even in the absence of roofs.

Finally, **Corey S. Shdaimah, Nancy D. Franke, Todd D. Becker, and Chrysanthi S. Leon** ask what role housing plays in the lives of people who are prosecuted for sex work. Their paper, 'Of House and Home: The meanings of housing for women engaged in criminalised street-based sex work', demonstrates that housing plays a significant part in the ability to successfully exit sex work or trafficking. During their conversations with participants in two prostitution diversion programmes in the United States, as well as staff of those programmes, the authors consider how housing precarity can limit participants' ability to move forward, as well as their actual and idealised views of housing.

Policy and Its Impact on Housing

Other authors consider how housing policy itself creates environments that promote—or even incentivise – exploitation. For example, **Shih Joo Tan**, in her article, 'When the Home Is Also the Workplace: Women migrant domestic workers' experiences with the "live-in" policy in Singapore and Hong Kong', examines the experiences of domestic workers in Singapore and Hong Kong. In both locations, domestic workers are required by law to reside at their employer's house. The result, as Tan illustrates through interviews with workers and employers, is that the government 'reinforces a situation that allows employers to have significant control over workers' bodies and mobilities, [including] where they are allowed to sleep, how much they can eat, what they can wear, when they can rest, who they can communicate with, and when they are allowed to go out'.

While the 'live-in' requirements of such visas mandate housing as part of the conditions of entry, in their article '"No Income, Temporary Visa, and Too Many Triggers": Barriers in accommodating survivors of slavery in Australia', **Kyla Raby, Nerida Chazal, Lina Garcia-Daza, and Ginta Mebalds** consider how immigration policy can create barriers to obtaining housing for survivors of trafficking. They focus particularly on how the Australian immigration policy limits working rights and access to social support. In turn, these exclusions contribute to survivors' difficulties in securing long-term stable housing, even after cooperating with law enforcement in the prosecution of offenders. The researchers surveyed 312 accommodation providers in Australia and found that for most, their ability to mitigate these barriers to housing was severely constrained due to federal policies.

Anti-Trafficking Housing Programmes and Their Failures

Finally, other authors examine the quality of housing that governmental or nongovernmental organisations provide to survivors of trafficking and other marginalised groups.

This 'homelessness' (as opposed to rooflessness) is most obvious in **Haezreena Begum Abdul Hamid**'s article, 'Shelter Homes – Safe haven or prison?'. Hamid explores the forcible detainment of 'rescued' migrant women victims

of trafficking in Malaysian shelter homes. Based on interviews with migrant women and shelter home staff, she describes the punitive nature, overcrowding, and lack of services that characterise these 'homes'. She concludes that they do not meet the socio-cultural definition of a home, and rather than promoting safety and recovery, contribute to deteriorating physical and mental health, legal disenfranchisement, and separation from support systems.

Similarly, in their short article, 'Closing the Door on Survivors: How anti-trafficking programmes in the US limit access to housing', **Karen Romero, Tatiana Torres, Alana Jones, and Ciara Dacosta-Reyes** conduct a much-needed desk review of 73 anti-trafficking housing programmes in the US and their internal policies for tenants, and ask whether these policies are rooted in trauma-informed principles. The answer, overwhelmingly, is no. Instead, the authors suggest that many programmes' policies may replicate the same coercive treatment found in traditional trafficking relationships, where survivors are controlled and disempowered.

While Hamid and Romero *et al.* focus on the experiences of people identified as trafficking survivors, **Chrysanthi S. Leon, Maggie Buckridge, and Michaela Herdoíza** turn their investigative gaze towards a group that has historically experienced exploitation but also significant stigmatisation. In the United States, prisoners are subject to not just slavery-like conditions during incarceration, but often face mandated work requirements upon release, especially if they are paroled to a halfway house or work release facility. In their innovative piece, '"I'm Scared to Death to Try It on My Own": I-Poems and the complexities of religious housing support for people on the US sex offender registry', the authors look at one group of former prisoners that are especially impacted by limited housing—sex offenders. Using I-Poems, a 'feminist technique for analysing qualitative interviews', they put the experiences and words of their interviewees, sex offenders and the people who run religious housing programmes for them, at the forefront of our minds. What we encounter is a case study in 'white saviourism', whereby housing programme directors express little or no concern in exploiting their tenants, as the tenants, sex offenders who are barred from most available housing, express the constrained choices they face.

Missed Opportunities: More chances to consider housing and home in anti-trafficking work

Taken together, the articles in this special issue highlight the need for structural changes to sever the link between homelessness and trafficking. In some cases, policy explicitly puts people in positions that render them vulnerable to trafficking, exploitation, and abuse by requiring certain housing circumstances. Uncomfortably, the articles in this edition also highlight that the anti-trafficking and other criminal justice system responses frequently continue to create coercive

housing environments. In coercive housing environments, the ability to stay housed is not a right but a privilege, which can be lost if a resident acts out of line. In a sector that is claiming to promote human rights, housing rights should also be at the forefront of our approach.

While these articles all represent important steps forward in the discussion about the relationship between anti-trafficking and housing status, I wish to acknowledge that our call for papers was much broader. Those suggestions or areas that were unaddressed highlight the need for more research on the intersection of trafficking and housing. Researchers are still quite reluctant to move away from their focus on sex and housing, especially among young people and women. The very small amount of research that has considered broader categories of trafficking and exploitation has found that financial exploitation and labour exploitation are experienced by a greater proportion of young people than trafficking for sexual exploitation.[25] In the Wright study, a community-based survey of young people experiencing homelessness, nearly 1 in 3 young people experienced trafficking for labour exploitation and 1 in 4 experienced fraud or other financial exploitation.[26] The results of the Mostajabian study were even more stark, with 55 per cent of young people living in homelessness shelters reporting they had been victims of labour exploitation. In another study, nearly 7 per cent of young people reported being pressed into drug trafficking, in addition to trafficking for labour and sexual exploitation, during their experiences with homelessness.[27] There has been even less research on risk to other types of trafficking—or the application of these findings to policy—regarding adult men, women, and gender-diverse people.

Second, I was hopeful that this call would also elicit pieces on the relationship between anti-trafficking policies and access to housing. The move towards partial criminalisation of sex work, such as the Nordic or Swedish Model, and its implications for housing, have not been well studied or explored. Interviews with people on the ground suggest that there are repercussions that have not been considered. For example, one sex worker activist from Sweden noted

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25 E R Wright *et al.*, 'The Prevalence and Correlates of Labor and Sex Trafficking in a Community Sample of Youth Experiencing Homelessness in Metro-Atlanta', *Social Sciences*, vol. 10, issue 2, 2021, pp. 32–48, https://doi.org/10.3390/socsci10020032; S Mostajabian *et al.*, 'Identifying Sexual and Labor Exploitation among Sheltered Youth Experiencing Homelessness: A comparison of screening methods', *International Journal of Environmental Research and Public Health*, vol. 16, issue 3, 2019, pp. 363–379, https://doi.org/10.3390/ijerph16030363; K Hail-Jares, 'Queer Young People and Couchsurfing: Entry pathways, service provision, and maintenance strategies', *Youth*, vol. 3, issue 1, 2023, pp. 199–216, https://doi.org/10.3390/youth3010014.

26 Comparably, approximately 1 in 6 reported an experience that met the US definition of 'sex trafficking'.

27 L T Murphy, *Labor and Sex Trafficking Among Homeless Youth – A Ten-City Study. Full report*, Loyola University New Orleans, New Orleans, 2022.

that her home had become a potential crime scene under the law: 'This is [the police's] operating strategy. One of their favourite things to say is "if the clients can find them, we can find them [the sex workers]." So they admit we're the… targets [of their] surveillance because they want to arrest as many people in the most effective way. [Police] can't just follow around random people in case they happen to buy sex, so they target sex workers. They go online or they find the ads… then they stakeout our homes to wait for the clients'.[28] Police surveillance of sex workers could result in outing or even eviction. Canadian researchers have recently reported that eviction and unstable housing can lead to an increase in intimate partner- and client-initiated violence for sex workers.[29] Thus, there is an urgent need to understand how such policies impact sex workers' ability to secure and maintain a safe home. Research in both of these areas is desperately needed.

Acknowledgements

Before closing, I wish to express my most heartfelt thanks to the *Anti-Trafficking Review* Editor, Borislav Gerasimov. He has served as an ardent supporter of this issue since the idea first crossed his inbox. Throughout this process, I have been grateful for his reminders, his sharp wit, his excellent editing, and his patience with my delays or insistence on adding 'just one more thing'. Thank you. I also wish to thank the many authors who contributed, the peer reviewers, and copyeditor. Finally, I wish to dedicate this volume to Sarah Mann. Sarah was a scholar on sex work, queerness, writing, and art.[30] She wrote often—and poignantly—about her experiences with poverty and housing instability. That housing instability, and the very real threat of eviction, often impeded her work, as she just tried to survive. In March 2023, Sarah died suddenly, at the age of 37. I hope Sarah's brilliance and her determination to see all people safely housed is present in every piece within this volume.

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28 Interview with K Hail-Jares, 9 November 2022.

29 S M Goldenberg *et al.,* 'Housing Instability and Evictions Linked to Elevated Intimate Partner and Workplace Violence Among Women Sex Workers in Vancouver, Canada: Findings from a prospective community-based cohort, 2010-2019', *American Journal of Public Health*, vol. 113, issue 4, 2023, pp. 442-452, https://doi.org/10.2105/ajph.2022.307207.

30 I encourage journal readers to read my favourite of Sarah's essays, published under her pseudonym: L Jello, 'Why You Shouldn't Study Sex Workers', *Tits and Sass*, 16 April 2015, https://titsandsass.com/why-you-shouldnt-study-sex-work.

Thematic Articles: Home and Homelessness

ANTI-TRAFFICKING REVIEW 20 (2023): 14-32

Takatāpui/LGBTIQ+ People's Experiences of Homelessness and Sex Work in Aotearoa New Zealand

Brodie Fraser, Elinor Chisholm, and Nevil Pierse

Abstract

At present, there is limited research on the intersection of sex work, takatāpui/LGBTIQ+ communities, and experiences of homelessness in Aotearoa New Zealand. This paper helps to bridge this gap, exploring how takatāpui/LGBTIQ+ people who had been failed by the welfare state engaged in sex work during periods of homelessness, and expressed agency in difficult circumstances. Specifically, we look at sex and sex work as a means to secure basic needs, and in the context of exploitative relationships; the emotional effects of sex work; and safety and policing. A stronger welfare state is needed to provide sufficient support for people to realise an adequate standard of living and treat them with dignity and respect.

Keywords: LGBTIQ+, takatāpui, homelessness, sex work, survival sex, Aotearoa New Zealand, agency

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Introduction

This paper explores the intersections of takatāpui/LGBTIQ+ identities, experiences of homelessness, and sex work in Aotearoa New Zealand (henceforth Aotearoa NZ; Aotearoa is the name for New Zealand in te reo Māori, the country's indigenous language). Using qualitative data, we explore how some takatāpui/LGBTIQ+ people experience homelessness, meet their basic needs through sex, are exposed to exploitative relationships, blur boundaries in intimate relationships, experience emotional effects of sex work, and navigate safety and policing. We seek to move beyond simplistic framings of sex workers as lacking in agency, contributing to existing literature on sex work and agency through

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the lens of takatāpui/LGBTIQ+ homelessness.[1] The data we present serves to deepen existing scholarship on LGBTIQ+ homelessness and sex work both in Aotearoa NZ and internationally, particularly through our exploration of agency and exploitation.

At the 2018 Census, there were over 41,000 New Zealanders, or nearly 0.9% of the population, who were experiencing homelessness.[2] Of these, Māori (Aotearoa NZ's indigenous people) and Pacific people's rates of homelessness were nearly four and six times higher, respectively, than Pākehā/New Zealand Europeans. The 2018 Census data also showed that slightly more women were experiencing homelessness than men. Rates of homelessness in Aotearoa NZ have steadily been increasing since counts first began. Homelessness in Aotearoa NZ is the sharp edge of precarity, in which precarity of labour markets and place contribute to pathways into homelessness.[3] Other research identifies that there are 'drifters' for whom homelessness is a continuation of their existing hardships and experiences of poverty, and 'droppers' who have higher class backgrounds and have somewhat unexpectedly dropped into a state of homelessness.[4] Liberal welfare states, such as Aotearoa NZ, see high levels of poverty and homelessness due to neoliberalism and subsequent decreases in state-provided support, particularly since the 1980s and 90s.[5] A 2019 government-mandated review of the welfare system found that it is not fit-for-purpose, and that low benefit rates do not cover basic costs and thus result in increased poverty.[6] People experiencing homelessness face extreme levels of poverty and struggle to obtain incomes on par with the wider population, even after receiving support from programmes such as Housing First.[7]

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1 R Andrijasevic and N Mai, 'Editorial: Trafficking (in) representations: Understanding the recurring appeal of victimhood and slavery in neoliberal times', *Anti-Trafficking Review*, issue 7, 2016, pp. 1–10, https://doi.org/10.14197/atr.20121771; C Cojocaru, 'My Experience is Mine to Tell: Challenging the abolitionist victimhood framework', *Anti-Trafficking Review*, issue 7, 2016, pp. 12–38, https://doi.org/10.14197/atr.20121772.

2 K Amore, H Viggers, and P Howden-Chapman, *Severe Housing Deprivation in Aotearoa New Zealand, 2018*, Wellington, 2020.

3 N Christensen, 'The Sharp Edge of Precarity', Master's Thesis, University of Otago, Dunedin, 2017.

4 D Hodgetts *et al.*, 'Drifting Along or Dropping into Homelessness', *Antipode*, vol. 44, issue 4, 2012, pp. 1209–1226, https://doi.org/10.1111/j.1467-8330.2011.00977.x.

5 S Fitzpatrick and M Stephens, 'Welfare Regimes, Housing Systems and Homelessness', *European Journal of Homelessness*, vol. 1, December 2007, pp. 201–212.

6 Welfare Expert Advisory Group, *Whakamana Tāngata: Restoring dignity to social security in New Zealand*, Wellington, 2019.

7 N Pierse *et al.*, 'Two-Year Post-Housing Outcomes for a Housing First Cohort in Aotearoa New Zealand', *European Journal of Homelessness*, vol. 16, issue 2, 2022, pp. 121–144.

There is a small amount of research on takatāpui/LGBTIQ+ homelessness in Aotearoa NZ. It is estimated that a fifth of transgender and gender-diverse people have experienced homelessness.[8] Thirty-eight per cent of takatāpui/LGBTIQ+ high school-aged youth have experienced housing deprivation, compared to 28.4 per cent of non-takatāpui/LGBTIQ+ youth.[9] Qualitative research on the backgrounds of takatāpui/LGBTIQ+ people who had experienced homelessness showed they shared commonalities: their family relationships, finances, and housing were unstable; they had to grow up fast due to social and material conditions; they had difficulties accessing housing in stressed markets; and they had been affected by systems failures that resulted in a lack of autonomy.[10] Other research has highlighted the importance of community engagement, insider research, and scholar-activism when conducting research on takatāpui/LGBTIQ+ homelessness in Aotearoa NZ.[11]

International research on the experiences of LGBTIQ+ people experiencing homelessness has often focused on their vulnerability and victimisation, including their participation in sex work. Participation in sex work is often motivated by economic stressors. LGBTIQ+ people who are experiencing homelessness engage in 'survival sex' and sex work at consistently higher rates than non-LGBTIQ+ people who are experiencing homelessness.[12] 'Survival sex' is defined as trading sex to meet one's survival needs, including housing, and is often a non-cash exchange that is a response to poverty.[13] However, the term has been critiqued as it reiterates the harmful notion that no one would choose to sell sex under other

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8 J Veale *et al.*, *Counting Ourselves*, Hamilton, 2019.

9 T Clark *et al.*, *Youth19 Housing Deprivation Brief*, University of Auckland & Victoria University of Wellington, Auckland, 2021, https://www.youth19.ac.nz/publications/housing-deprivation-a-youth19-brief.

10 B Fraser, E Chisholm, and N Pierse, "'You're so Powerless": Takatāpui/LGBTIQ+ people's experiences before becoming homeless in Aotearoa New Zealand', *Plos One*, vol. 16, issue 12, 2021, pp. 1–23, https://doi.org/10.1371/journal.pone.0259799.

11 T Vandenburg, S Groot, and L W Nikora, "'This Isn't a Fairy Tale We're Talking about; This Is Our Real Lives": Community-orientated responses to address trans and gender diverse homelessness', *Journal of Community Psychology*, vol. 50, issue 4, 2022, pp. 1966–1979, https://doi.org/10.1002/jcop.22606.

12 R Gangamma *et al.*, 'Comparison of HIV Risks among Gay, Lesbian, Bisexual and Heterosexual Homeless Youth', *J Youth Adolescence*, vol. 37, 2008, pp. 456–64, https://doi.org/10.1007/s10964-007-9171-9; S K Kattari and S Begun, 'On the Margins of Marginalized: Transgender homelessness and survival sex', *Affilia: Journal of Women and Social Work*, vol. 32, issue 1, 2017, pp. 92–103, https://doi.org/10.1177/0886109916651904.

13 N E Walls and S Bell, 'Correlates of Engaging in Survival Sex among Homeless Youth and Young Adults', *Journal of Sex Research*, vol. 48, issue 5, 2011, pp. 423–436, https://doi.org/10.1080/00224499.2010.501916.

conditions, and serves to stigmatise and disempower.[14] Compared to their non-LGBTIQ+ peers, LGBTIQ+ youth experiencing homelessness who engage in 'survival sex' report significantly higher numbers of clients, as well as inconsistent condom use with clients, putting them at greater risk of contracting sexually transmitted infections.[15] Other research has found that LGBTIQ+ youth who engage in sex work and 'survival sex' are aware of the risks associated with these practices, and the importance of safe sex.[16] Furthermore, LGBTIQ+ people experiencing homelessness report minimal protection and frequent victimisation when engaging in 'survival sex'.[17]

Such research has not been common within the Aotearoa NZ context, given the jurisdiction's legislation and policy on sex work. Aotearoa NZ was the first country to fully decriminalise sex work amongst adults with the passing of the *Prostitution Reform Act 2003*.[18] Decriminalisation has had little effect on the numbers of sex workers and has served to lessen power imbalances between sex workers and police, as well as protect them from exploitation.[19] It remains illegal for migrants on temporary visas to work in the sex industry, which has caused division within

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14 K McMillan, H Worth, and P Rawstorne, 'Usage of the Terms Prostitution, Sex Work, Transactional Sex, and Survival Sex', *Archives of Sexual Behavior*, vol. 47, issue 5, 2018, pp. 1517–1527, https://doi.org/10.1007/s10508-017-1140-0.

15 B D L Marshall *et al.*, 'Survival Sex Work and Increased HIV Risk among Sexual Minority Street-Involved Youth', *J Acquir Immune Defic Syndr*, vol. 53, issue 5, 2010, pp. 661–664, https://doi.org/10.1097/QAI.0b013e3181c300d7.

16 G L Ream, K F Barnhart, and K V Lotz, 'Decision Processes about Condom Use among Shelter-Homeless LGBT Youth in Manhattan', *AIDS Research and Treatment*, vol. 2012, 2012, pp. 14–17, https://doi.org/10.1155/2012/659853.

17 E J Alessi *et al.*, 'Victimization and Resilience Among Sexual and Gender Minority Homeless Youth Engaging in Survival Sex', *Journal of Interpersonal Violence*, vol. 36, issue 23-24, 2020, pp. 11236–11259, https://doi.org/10.1177/0886260519898434.

18 G Abel, 'A Decade of Decriminalization: Sex work "down under" but not underground', *Criminology & Criminal Justice*, vol. 14, issue 5, 2014, pp. 580–592, https://doi.org/10.1177/1748895814523024; G Abel, L J Fitzgerald, and C Brunton, 'The Impact of Decriminalisation on the Number of Sex Workers in New Zealand', *Journal of Social Policy*, vol. 38, issue 3, 2009, pp. 515–531, https://doi.org/10.1017/S0047279409003080; E Aroney, 'Changing Minds and Changing Laws: How New Zealand sex workers and their allies shaped decriminalisation in New Zealand', *Sexuality Research and Social Policy*, vol. 18, issue 4, 2021, pp. 952–967, https://doi.org/10.1007/s13178-021-00564-z.

19 Abel, 2014; Abel, Fitzgerald, and Brunton; L Armstrong, 'From Law Enforcement to Protection? Interactions between sex workers and police in a decriminalized street-based sex industry', *British Journal of Criminology*, vol. 57, issue 3, 2017, pp. 570–588, https://doi.org/10.1093/bjc/azw019.

the community, and opens them up to exploitation.[20] Decriminalisation has also meant that scholars are more likely to view sex work as legitimate work and have less-often focused on sex work as a behavioural risk factor. This differs dramatically from the emerging body of literature that suggests LGBTIQ+ communities are over-represented in 'sex trafficking' figures and are vulnerable to 'sex trafficking', particularly when experiencing homelessness.[21] Such studies have predominantly been conducted within a United States context, where federal law conflates all sex work with trafficking. There has been no evidence to suggest human trafficking into sex work is, or was, an issue in the Aotearoa NZ context.[22] In exploring structural failures (such as an inadequate welfare system) and agency in the context of LGBTIQ+ homelessness and sex work, we hope to provide further nuance to these discussions of exploitation and power that frequently emerge in the 'sex trafficking' literature.

Methods

Terminology

The acronym LGBTIQ+ stands for lesbian, gay, bisexual, transgender, intersex, queer, and other minority gender and sexual orientation identities (such as pansexual, non-binary, and asexual). The word takatāpui historically translates to 'intimate partner of the same sex' and is widely used among LGBTIQ+ Māori as both an identity in and of itself, to describe their sexuality or gender in culturally

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20 G Easterbrook-Smith, 'Resisting Division: Migrant sex work and "New Zealand working girls"', *Continuum*, vol. 35, issue 4, 2021, pp. 546–558, https://doi.org/10.1080/10304312.2021.1932752.

21 J K P Greeson *et al.*, 'Prevalence and Correlates of Sex Trafficking among Homeless and Runaway Youths Presenting for Shelter Services', *Social Work Research*, vol. 43, issue 2, 2019, pp. 91–100, https://doi.org/10.1093/swr/svz001; K A Hogan and D Roe-Sepowitz, 'LGBTQ+ Homeless Young Adults and Sex Trafficking Vulnerability', *Journal of Human Trafficking*, vol. 9, issue 1, 2023, pp. 63–78, https://doi.org/10.1080/23322705.2020.1841985; J S Middleton *et al.*, 'Youth Experiences Survey (YES): Exploring the scope and complexity of sex trafficking in a sample of youth experiencing homelessness', *Journal of Social Service Research*, vol. 44, issue 2, 2018, pp. 141–157, https://doi.org/10.1080/01488376.2018.1428924; C Schwarz and H E Britton, 'Queering the Support for Trafficked Persons: LGBTQ communities and human trafficking in the heartland', *Social Inclusion*, vol. 3, issue 1, 2015, pp. 63–75, https://doi.org/10.17645/si.v3i1.172.

22 L Armstrong, G Abel, and M Roguski, 'Fear of Trafficking or Implicit Prejudice? Migrant sex workers and the impacts of Section 19', in L Armstrong and G Abel (eds.), *Sex Work and the New Zealand Model*, Bristol University Press, Bristol, 2020, pp. 113–134; N Mai *et al.*, 'Migration, Sex Work and Trafficking', *Ethnic and Racial Studies*, vol. 44, issue 9, 2021, pp. 1607–1628, https://doi.org/10.1080/01419870.2021.1892790.

appropriate ways, and as an umbrella term which embraces all Māori with diverse sexualities, gender identities, and sex characteristics.[23] We choose not to use the term 'sex trafficking' as it is poorly defined, and often employed to refer to all sex work—especially in the US context.[24] For the Aotearoa NZ context, we do not believe 'trafficking' to be a useful term.[25] We use the term sex work to refer to instances where sexual services are provided for payment or reward (not necessarily monetary), and emphasise the agency available to those who participate in sex work as a direct result of structural constraints and inequities.

Sampling and Procedures

The data we present in this paper comes from BF's doctoral research, which was one of the first to look at takatāpui/LGBTIQ+ people's experiences of homelessness in Aotearoa NZ. The aims of this broader project were to explore the experiences of homelessness for takatāpui/LGBTIQ+ people; to investigate how takatāpui/LGBTIQ+ homelessness relates to other sites of oppression; and to understand how both government and wider support systems shape the experiences of takatāpui/LGBTIQ+ homelessness. Interviews with takatāpui/LGBTIQ+-identifying people who had been, or were, homeless were conducted between October 2018 and February 2019. Participants were required to be in the same region as the research team, so they could easily join a participatory video project intended to complement interviews.[26] Participant recruitment was carried out via posters in key locations across Wellington, social media and emails, word of mouth, and researcher visits to additional key locations. Social media and word of mouth were the most effective form of recruitment; visits to key locations did not eventuate in any recruitments; and one participant was recruited from a poster in a public library. The research utilised the critical paradigm, which allows for the researcher's values to be central in the purpose and methods of the research.[27] This gives spaces for BF's insider position as a queer and non-binary person, enabling them to understand the research findings in ways that outsiders to takatāpui/LGBTIQ+ communities might not.

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23 E Kerekere, 'Part of The Whānau: The emergence of takatāpui identity', Victoria University of Wellington, 2017.

24 B Chapman-Schmidt, '"Sex Trafficking" as Epistemic Violence', *Anti-Trafficking Review*, issue 12, 2019, pp. 172–187, https://doi.org/10.14197/atr.2012191211.

25 Abel, 2014.

26 B Fraser, E Chisholm, and N Pierse, 'A Failed Attempt at Participatory Video With Takatāpui/LGBTIQ+ People Who Had Experience Homelessness', *International Journal of Qualitative Methods*, vol. 21, 2022, pp. 1–13, https://doi.org/10.1177/16094069221103663.

27 J Ponterotto, 'Qualitative Research in Counseling Psychology', *Journal of Counseling Psychology*, vol. 52, issue 2, 2005, pp. 126–136.

Eight people were interviewed who met the Aotearoa NZ definition of homelessness, which includes couchsurfing and living in temporary or inadequate accommodation.[28] Ethics approval was granted by the University of Otago's Human Ethics Committee, reference 18/147. This is the same sample of participants as discussed in our previous work.[29] Table 1 provides basic demographic details for participants. They had experienced homelessness at a range of points in time, as we kept the inclusion criteria open to any lifetime experience of homelessness. For the most part, participants were highly educated. Avery, Ayeisha, Marielle, and Omar had all attended university; Felix and Clara had attended polytechnics (tertiary institutions that offer hands-on, vocational, study options). All participants experienced severe poverty and financial insecurity before, during, and after their periods of homelessness. Six of the eight participants (all except for Ayeisha and Avery) reported engaging in sex work or using sex to secure their basic needs; all participants were asked about sex work. Most participants were Pākehā. We chose not to collect iwi (Māori tribes/nations) data to maintain confidentiality; the small sample size and small size of the takatāpui/LGBTIQ+ community means participants would have had their anonymity jeopardised as they would have been easily identifiable. For this same reason we have not specified Omar's nationality to maintain anonymity.

Table 1 – Demographics

Pseudonym	Gender & Sexuality	Ethnicity	Age at Interview	Forms of Homelessness	Decade of Homelessness Experience
Avery	Female, Gender fluid, Bigender, Trans, Bisexual	Pākehā	50s	Garage, Couch surfing, AirBnB	2010s
Ayeisha	Female, Lesbian	Pākehā	70s	Garage	1980s
Clara	Female, Trans, Heterosexual	Māori	30s	Emergency accommodation, Rough sleeping, Hostels, Couch surfing	1990s, 2010s
Felix	Male, Pansexual	Pākehā	30s	Rough sleeping, Couch surfing	1990s, 2000s, 2010s
Marielle	Female, Queer, Pansexual	Pākehā	20s	Rough sleeping, Couch surfing	2010s
Nico	Takatāpui, Trans, Queer	Māori	30s	Couch surfing, Squatting, Bus/van, Foster care	1990s, 2010s
Omar	Male, Bisexual	African	30s	Rough sleeping, Shelter	2010s
Thom	Male, Bisexual	Pākehā	40s	Rough sleeping, Couch surfing, Hostels	1990s

28 K Amore *et al.*, *Severe Housing Deprivation*, Statistics New Zealand, Wellington, 2013.

29 Fraser, Chisholm, and Pierse, 2021; Fraser, Chisholm and Pierse, 2022.

Data Analysis

The research used constructivist grounded theory, which meant there was no target sample size set in advance, as this is determined by theoretical sufficiency.[30] Theoretical sufficiency is said to be reached when the data no longer produces theoretical insights. Once theoretical sufficiency was reached at seven interviews, the research team was consulted to confirm this was appropriate. An additional participant was interviewed to ensure theoretical sufficiency was reached. A total of 126 codes were created. Of these, 72 were top-level codes and a further 54 were secondary-level codes nested underneath. Codes were created by BF and the remaining authors were consulted throughout. During the beginning of coding, the codes were mostly descriptors, many of which aligned with BF's literature review and the interview schedule. As more interviews were conducted, categories were determined, and the data was coded accordingly. These intermediary codes/categories were discussed, refined, and expanded upon with the remaining authors to form our final categories. In this article we discuss categories related to sex and sex work; other categories are discussed elsewhere.[31]

Results

Meeting Basic Needs through Sex

Sex and sex work were a means through which participants could secure their basic needs, such as income and shelter, while they were experiencing poverty and homelessness. Clara explains how it felt to begin sex work:

> *Cool, cuz I had all this money. But also, also freaky…you're like underage and suddenly you're introduced into doing very adult things like having sex with men…and all those sorts of things, it's really very different when you're 14, but you just think about the money…you need the money to live, you've gotta eat, you've gotta pay rent, you've gotta stay in a hotel room, so you do it.*

Clara's ambivalence is evident in this quote: sex work empowered her to access the money she needed for her basic needs, but it was also 'freaky'; as a child doing 'very adult things', she focussed on the importance of the money to get through it.

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30 K Charmaz, *Constructing Grounded Theory*, SAGE Publications, London, 2006; P Liamputtong, *Qualitative Research Methods*, Third edition, Oxford University Press, Oxford, 2009.

31 Fraser, Chisholm, and Pierse, 2021.

At a time when Clara was unable to receive support from the social welfare system, or secure a formal job, sex work was her means of survival:

> *Yeah so you would have everything on you, your razor, your shampoo, your conditioner, body wash, on you, in your handbag, with your make up and maybe like a slutty dress to wear as well because you'd never know where you'd be and you'd just have to whip out the dress and make some money, could be anywhere, anytime, you might need money, so that's like your credit card… your slutty dress is the hooker's equivalent of a credit card where you could just whip it out and boom, make some money.*

In making sure she was always prepared, Clara gave herself the power to decide when and where she would find clients and make money.

Marielle shared how, when she was experiencing homelessness, people would offer her accommodation in exchange for sex, or suggest she go out in order to obtain accommodation this way:

> *Oh, 'you can have a bed for the night if you come and sleep with me.' Like I had a few people offer me that, like 'oh, it's a bed for the night' or, 'why don't you just go to town, it's much more possible, you can get free drinks, numb yourself down, and then go and fuck someone and you've got a bed for the night, really nice, really easy.'*

Here we can see that sex had the potential of being a way for Marielle to obtain somewhere to sleep for a night. Yet, this option was one that caused considerable inner turmoil for Marielle, as is clear by her description of the need to 'numb' herself with alcohol in order to go through with it.

Exploitative Relationships

Some participants reported sex occurring as a result of exploitative relationships; in these cases, sex enabled the continuation of a relationship that helped people survive systems failures such as poverty and an inadequate welfare state. Exploitation occurred in both professional and familial relationships. Clara reported how, while engaging in sex work prior to its decriminalisation, her drag mother took advantage of her financially:

> *I met up with some trans people…they'll take you under their wing as like your drag daughter, they'd be your drag mother…through them you would go out and work on the streets, earn money, and…your drag mum would take your money and use it for your accommodation and for whatever else they wanted…they would just like take all your [money]…I was like 14…and didn't really click on to stuff like that.*

Clara was exposed to exploitation because of her youth; because sex work was not yet decriminalised; and because she was experiencing homelessness and needed an income. Clara had left home at age 14 due to instability in her family and the lack of a supportive community. By helping her access accommodation, Clara's drag mother played some of the role of providing support ascribed to the term;[32] yet, she also exploited Clara by using her earnings for herself and not allowing Clara autonomy over her finances. Due to her age and newness to the industry, Clara was exposed to exploitation from older, more experienced workers. In addition, the then-criminalisation of sex work meant workers were less able to work independently, which thus increased opportunities for exploitation by third parties.[33] These experiences are congruent with existing literature which shows the multifaceted relationships between drag mothers and young trans sex workers, and that these relationships can be simultaneously sites of exploitation and care.[34]

Exploitation also occurred in familial relationships. Marielle spent several months rough sleeping when she could not afford accommodation because her mother had asked her for financial support to leave Marielle's abusive father. For several months, she sent her mother her entire savings, plus most of her weekly income, plunging her into poverty. During this period, she used sex to obtain a bed for the night. Unfortunately, Marielle eventually discovered her mother had not left her father but was still taking her money. Nico was exploited by their foster mother. They had arranged informal foster care for themself in adolescence in order to access welfare support, which they were unable to access independently; the government paid the money to their foster mother, who in turn gave the money to Nico. Nico described how this put them into a potentially unsafe situation:

> *The foster mum totally set me up to have sex with her brother who was like 25 or something and I was like 'I am not into him'.…[She] ended up getting me to go and hang out with him at his house in the middle of nowhere, it's not like I could go home at the end of the day because it's not like I had a fucking car, and oh there's only one bed there, obviously I'm supposed to have sex with him.*

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32 H Collie and G Commane, "'Assume the Position: Two Queens Stand Before Me": RuPaul as ultimate queen', *Celebrity Studies*, vol. 11, issue 4, 2020, pp. 402–416, https://doi.org/10.1080/19392397.2020.1765081.

33 C Healy, A Wi-hongi, and C Hati, 'It's Work, It's Working: The integration of sex workers and sex work in Aotearoa/New Zealand', *Women's Studies Journal*, vol. 31, issue 2, 2017, pp. 50–60.

34 V Sampethai, 'Workers, Migrants, and Queers: The political economy of community among illegalised sex workers in Athens', *Anti-Trafficking Review*, issue 19, 2022, pp. 28–46, https://doi.org/10.14197/atr.201222193.

This example shows the nuanced ways youth in foster care (both informal and formal) can be sexually exploited. While Nico was not explicitly forced into a sexual relationship with this person who was approximately 10 years their senior, there was an unspoken expectation from their foster mother, a person who held power over them, that Nico would have sex with this man. Other studies about underage sex work in Aotearoa NZ report similar coercion from older people.[35]

Yet, participants also showed how they maintained a degree of agency within exploitative relationships. The above example from Nico, about being expected to have sex with their foster mother's brother, also gives us insight into how Nico attempted to navigate the situation while still maintaining some autonomy:

> *…I think that a lot of adults assume that you're a bit stupid if you're young… when I was 14 I knew exactly what 'go and hang out with my brother' meant, but I knew how all that would go down, you know? So I could have potentially been like 'nah, I don't wanna hang out with your brother' [laughs] but you know, it's like you, you have a view of what your cards are and then you play them the way you think is the best way for you and I think that…you learn through trial and error to like think in survival-y ways and to think about strategy, basically.*

Nico could have resisted this expectation, but they knew, for their continued survival and the benefits afforded to them from this informal foster care relationship, they needed to meet their foster mother's expectations and so made the 'micro-decision' to meet with their foster mother's brother.[36]

Blurred Boundaries in Intimate Relationships

We also saw evidence of blurred boundaries between sex work and other relationships, friendships, and sexual encounters. Thom shared how he would sometimes go home with men without telling them he was experiencing homelessness, and only later he would attempt to get money from them:

> *Through dishonest means because I would like pick up a dude somewhere and go home with him and either beg, borrow, or steal money from them to obtain enough cash to do various straightforward things. So, nothing major, probably,*

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35 N Thorburn, 'Consent, Coercion and Autonomy: Underage sex work in Aotearoa New Zealand', *Aotearoa New Zealand Social Work*, vol. 28, issue 1, 2016, pp. 34–42, https://doi.org/10.11157/anzswj-vol28iss1id114.

36 J M Wojcicki and J Malala, 'Condom Use, Power and HIV/AIDS Risk: Sex-workers bargain for survival in Hillbrow/Joubert Park/Berea, Johannesburg', *Social Science and Medicine*, vol. 53, issue 1, 2001, pp. 99–121, https://doi.org/10.1016/s0277-9536(00)00315-4.

> *I think like I said the most I got was a 50 once, usually 10 or 20 bucks, and yeah, that would be lunch for a couple of days or something like that.*

During periods of hardship, Thom was able to use his limited agency in deciding to initially conceal that his main reason for going home with someone was to have a place to sleep for a night and to obtain money. This blurring of boundaries between a straightforward sexual encounter and sex work arose out of the poverty he was experiencing and a need to secure his basic needs; he noted this was 'dishonest' but he was not getting 'major' amounts of money from these interactions. The poverty Thom was experiencing resulted in him adapting and choosing to blur the boundaries of these interactions.

People who experience homelessness often engage in intimate relationships in attempts to secure their basic needs. Watson notes this is often described as a form of 'survival sex',[37] which although useful, reduces individual's experiences to transactions within an informal economy. This serves to minimise the complexity of relationships being undertaken within the context of structural constraints and inequities such as poverty. Such experiences highlight the blurring of boundaries between relationships, sex, and sex work. Nico explains how they entered into a relationship so they would be able to meet their most basic needs:

> *So, I hooked up with this guy and I was kind of into him, and I was also kind of not into him but I was like 'well, he seems like he's got money'…My friend was like 'he's always got like change in his car' and I was like 'that's a good point, and he always brings biscuits over to our house and stuff' which is like, hilarious shit, you know? Poor children, being like 'hmm, biscuits' [laughs]…So anyway, I hooked up with him, partially on the basis that I was like well, I need somewhere to live, and he had a house…and he always had a car.…I was like 'yeah, this seems like a sensible move.'*

This example shows how people who are experiencing homelessness can draw on intimate relationships to obtain housing and food, and how they cope with doing so. In this instance, the relationship became abusive, and while Nico gained a place to live, it was not safe or secure housing. However, to cope with this later in their life, Nico had come to view it (or to portray it to others) as a humorous situation. This links to our previous findings which demonstrated how systems failures result in a lack of autonomy.[38] Lack of adequate support for people experiencing homelessness, particularly takatāpui/LGBTIQ+ people, forces them into survival strategies which may have long-term detrimental impacts on their wellbeing.

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37 J Watson, 'Understanding Survival Sex: Young women, homelessness and intimate relationships', *Journal of Youth Studies*, vol. 14, issue 6, 2011, pp. 639–655, https://doi.org/10.1080/13676261.2011.588945.

38 Fraser, Chisholm, and Pierse, 2021.

Emotional Effects

Some participants discussed how sex work affected their emotions and sense of self. Despite being a strategy that helped her to meet her needs while experiencing homelessness, Clara still faced a lot of judgement and stigma for her work in the sex industry:

> *…14, 15, 16 years old, with no qualifications and being transgender, the only work there was, was sex working, which was quite lucrative…I'm not saying it's the best thing for young teens to be doing, but…what I also want to point out is that often transgender people are pushed up against a wall and then when we have to make bad choices for ourselves cuz there's nothing else to do, then society looks down on us for making those choices when they've actually put us in those positions to begin with…*

This caused inner conflict for her: she refers to sex work as being a 'bad choice', while simultaneously recognising it was the only option available to her in a neoliberal welfare system which did not support her during a time of need. Furthermore, she also acknowledged there is nothing inherently wrong with sex work, but rather it is the systems failures that forced her into unsafe situations (particularly pre-decriminalisation) which were detrimental to her wellbeing. Clara powerfully resists individualisation of her situation, recognising the role societal structures have had in placing her in this position.

Marielle struggled to come to terms with her experience of utilising sex to secure shelter for a night. She said for her '…the worst part of it [experiencing homelessness] long term has been the inner conflict of like, people offering you a bed for the night if you'd do things'. Marielle only once used sex as a means to secure shelter for a night and concealed her motivations for sleeping with this person. She felt intense shame about experiencing homelessness and concealed it from as many people as possible. Of this encounter, Marielle said she 'hated [her]self afterwards' for it; 'I never did it again, it just made me feel cheap and nasty'. Marielle attempted to use sex as a means to lessen the difficulties of homelessness and extreme poverty, yet had internalised the stigma attached to this, which negatively impacted her sense of self and wellbeing.

Some participants' experiences of sex work had positive emotional elements to them; sex work enabled Clara to find acceptance and community. She had run away from home due to the lack of acceptance of her gender identity in her small town. She felt accepted when she met a group of trans sex workers and began working with them.

> *…and that's when I met street workers, they were all transgendered, and I'd never met anyone else that was transgender before and I think because I hadn't been accepted all through my childhood into any like, group, and I felt like this [is] where I belong to, so that's when I started sex work…*

This was not a healthy situation for a 14-year-old—Clara was also introduced, and became addicted, to drugs. Yet, it enabled her to have an income, to find her feet in the trans community, and connect with other people who had similar life experiences. For her, the acceptance and community she found through sex work gave her a place where she finally felt comfortable, even when it was, as previously mentioned, also a source of exploitation. As Fletcher notes, in the Canadian context, sex work can provide a sense of community to trans women who have been excluded from other parts of society.[39] This is important in the context of LGBTIQ+ homelessness, wherein LGBTIQ+ identities can exacerbate existing instabilities and strains within conditional families—wherein certain conditions related to gender and sexuality have to be met in order to remain part of one's family—often resulting in LGBTIQ+ youth simultaneously experiencing homelessness and familial disconnection.[40]

Safety and Policing

Participants also discussed their experiences with safety and policing while engaging in sex work, particularly focusing on experiences pre-decriminalisation. Prior to decriminalisation, there were limited protections for those who engaged in sex work, and outing themselves as sex workers put them at risk of prosecution. Because of this, sex workers had little control over their safety, and often had to survive unsafe situations on their own. Thom discussed how sex work repeatedly make him feel unsafe:

> *…I was always more afraid when I was with people in the houses than I was out on the street. Like…where's the door out, how high up are we, where's the window, can I get out a window if I need to, can I pick up something that…I could protect myself with, things like that. But I mean at the same time… you're there for a reason…I think that's what sort of slowed me down…you try be in the moment…dudes are horny…but also if you look like you're fucking scared as shit then no one's going to have sex with you…may as well make the most of it…but yeah, I was always, always more scared in people's houses than I was on the streets…*

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39 T Fletcher, 'Trans Sex Workers', in E van der Meulen, E M Durisin, and V Love (eds.), *Selling sex*, UBC Press, Vancouver, 2013, pp. 65–73.

40 B A Robinson, 'Conditional Families and Lesbian, Gay, Bisexual, Transgender, and Queer Youth Homelessness', *Journal of Marriage and Family*, vol. 80, issue 2, 2018, pp. 383–396, https://doi.org/10.1111/jomf.12466.

Earlier in our interview, Thom had discussed how he felt unsafe during his prolonged period of homelessness, particularly at times when he was rough sleeping. As above, however, he felt even less safe when he went home with a stranger. The criminalisation of sex work served to create significant power imbalances between Thom and the people he had sex with. Similarly, Felix revealed that:

> *…while I was homeless in Wellington I was also doing a bit of working boy stuff, cuz it was the only time I wasn't on a full benefit, so I was a working boy, so I did have an assault happen because of that.*

The power imbalances between client and worker, and an absence of legal protections, contributed to a lack of safety and security for these two.[41]

The policing of sex work prior to decriminalisation continues to impact participants' lives despite the law change. People who had been charged for 'prostitution soliciting' prior to decriminalisation have not had their police records cleared, and in 2021 the then Minister of Justice's office noted that expunging these records was not a priority.[42] Such convictions, and others that sex workers obtained while working, continue to negatively impact their lives. Clara explained how these historic convictions have prevented her from getting jobs, and that she was 'lucky' her current job did not run a background check:

> *…they didn't do a background check or police records…which thank god because they'd find a really atrocious long list of hideous things…back when sex work was illegal and police used to come down K'Road [Karangahape Road] and hassle us girls because everything we were doing was completely illegal and you weren't allowed to solicit, so they'd arrest you, strip search you on the spot, on the side of the road…*

These historic police records contribute to the continuing precarity faced by many takatāpui/LGBTIQ+ people who have experienced homelessness. They open people up to discrimination and stigma for their history of sex work and restrict the number of jobs and houses available to them when background checks are performed. This lessens the autonomy of people with these convictions when

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41 Armstrong, 2017; L Armstrong, 'Stigma, Decriminalisation, and Violence Against Street-Based Sex Workers: Changing the narrative', *Sexualities*, vol. 22, issue 7–8, 2019, pp. 1288–1308, https://doi.org/10.1177/1363460718780216.

42 K Harris, 'No Work Underway to Expunge Historic Sex Work Convictions Affecting More than 1000', *New Zealand Herald*, 14 July 2021, retrieved 25 February 2023, https://www.nzherald.co.nz/nz/no-work-under-way-to-expunge-historic-sex-work-convictions-affecting-more-than-1000/4566BZYG3YCIQYQF4LIAXKPJ3U.

they navigate both the job and housing markets. They represent one way in which stigma against sex workers is entrenched in the legal system.[43]

Discussion

Our findings show that sex and sex work were a means of securing basic needs during periods of homelessness. Structural failures such as an inadequate and inaccessible welfare state resulted in participants utilising sex to obtain money, shelter, and food. Homelessness and its relation to sex exposed our participants to exploitative relationships; the poverty and precarity inherent in experiences of homelessness resulted in some participants being exploited by people who were supporting them in various ways. Furthermore, we saw how homelessness resulted in boundaries becoming blurred between sex work and sex within personal relationships, wherein some participants entered into, or continued, intimate relationships in order to secure housing or financial support. Our findings also showed how sex work, in conjunction with homelessness, can have lasting emotional effects, and that safety and policing were considerable concerns prior to decriminalisation. Most of the experiences we presented occurred pre-decriminalisation, so we are unable to clarify whether the exploitation our participants faced lessened after decriminalisation. However, decriminalisation has undoubtedly served to equalise power relations and lessen exploitation in the sex industry in Aotearoa NZ.[44]

Sex work is a key way LGBTIQ+ people experiencing homelessness can obtain an income, and they engage in it at higher rates than non-LGBTIQ+ people experiencing homelessness.[45] Our findings reiterate this; the majority of our participants had engaged in sex work in order to meet some of their basic needs when faced with structural failures such as poverty, homelessness, or the inadequacies of the welfare state. While they were able to express their agency and find community in these situations, they saw that they had been failed by institutional support systems, and that engaging in sex work while *also* experiencing homelessness sometimes resulted in exploitation and reduced personal safety. Our participants struggled, in multiple ways, to access welfare benefits and found themselves having to obtain shelter and income without the support of the state. The urgency of survival under inequitable and unsupportive structures, especially during periods of homelessness, necessitates imperfect solutions—

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43 Z Stardust *et al.*, "'I Wouldn't Call the Cops If I Was Being Bashed to Death": Sex Work, Whore Stigma and the Criminal Legal System', *International Journal for Crime, Justice and Social Democracy*, vol. 10, issue 2, 2021, pp. 142–157, https://doi.org/10.5204/IJCJSD.1894.

44 Healy *et al.*.

45 Kattari and Begun; Marshall *et al.*; Walls and Bell.

such as doing sex work under drag mothers who keep half of one's income, or blurring boundaries within intimate relationships. While decriminalisation has since improved the conditions in which sex work is done, institutional support systems—particularly the welfare state—are failing takatāpui/LGBTIQ+ people experiencing homelessness in Aotearoa NZ.[46]

The welfare state in Aotearoa NZ does not currently provide sufficient support for people to realise an adequate standard of living, nor does it treat them with dignity and respect.[47] This, and an ongoing housing crisis (particularly in terms of affordability), are key contributors to the consistent rise in the number of people experiencing homelessness in Aotearoa NZ. Navigating the welfare system is complex—particularly for those seeking housing support—and when support is accessed, it is not sufficient for people to live stable, dignified lives. As a result, it frequently falls on individuals, their communities, and non-government organisations to fill these gaps. The experiences we have presented in this paper are one such way in which takatāpui/LGBTIQ+ people, in particular, are meeting their needs during periods of homelessness. For some of our participants, sex work, at times, felt like the only choice available to them. As we have shown, survival in this context can be difficult. It can have significant effects on people's physical and emotional wellbeing and push them into situations they would have otherwise avoided. If the state were to provide adequate support with dignity, we believe that the conditions under which people engage in sex work would continue to improve, allowing them more freedom and choice about if, why, how, and when they participate in such work. This, combined with the conditions already facilitated by decriminalisation, will continue to improve the safety and wellbeing of sex workers.

Much of the existing LGBTIQ+-specific sex work literature focuses on victimisation, but not exploitation, power, and agency. Literature which *does* discuss exploitation is focused on 'trafficking' and, with one exception, does not discuss agency. This singular paper focuses on trans sex workers and victims of human trafficking for sexual exploitation—rejecting the view of all sex work as a form of 'trafficking', but highlighting instances of trafficking as per the UN Trafficking Protocol, even when participants did not necessarily view these experiences as such.[48] In this context, agency is discussed in terms of popular narratives that position trans women as being 'less exploitable' due to their presumed willingness to work in the sex industry; they are given less support by police, the legal system, and service providers, because of their decision to work in the sex industry.

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46 Fraser, Chisholm, and Pierse, 2021.

47 Welfare Expert Advisory Group.

48 A E Fehrenbacher *et al.*, 'Transgender People and Human Trafficking', *Journal of Human Trafficking*, vol. 6, issue 2, 2020, pp. 182–194, https://doi.org/10.1080/23322705.2020.1690116.

Personal agency, in these narratives, is used to deflect from power dynamics and structural failures such as a lack of legal protection and discrimination; it allows the very real safety needs of trans women to be ignored simply because they choose to work in the sex industry. This choice to engage in sex work is often mediated by structural factors such as discrimination within job markets—which leaves trans women without secure jobs—and inaccessible welfare states. Our findings reiterate this point; our participants' entry into sex work was necessitated by homelessness, poverty, and an inability to access support from the state. In neoliberal discourses of individualised responsibility, these factors, as well as any exploitation and unsafe situations experienced while engaging in sex work, are frequently framed as a series of 'bad choices' on the part of the individual; the role of wider social structures remains hidden.[49] It is important, then, that we continue to acknowledge the centrality of structural factors in people's experiences of both homelessness and sex work.

Conclusion

Our research shows that in the context of a weak welfare system and a lack of affordable housing, some takatāpui/LGBTIQ+ people turn to sex and sex work to secure their basic needs, including shelter. They have some degree of agency in these situations, but they also have negative experiences. Therefore, we need a more just welfare system. Doing sex work within the confines of systematic structural failures and inequities, such as poverty and homelessness, influence takatāpui/LGBTIQ+ people's agency, relationships, sense of self, and wellbeing with both positive and negative consequences. For some participants, sex and sex work were ways to meet their needs. For others, sex work and internalised stigma resulted in a negative sense of self. Similar to existing literature both in Aotearoa NZ and internationally, we found high levels of structural failures—such as inadequate and inaccessible welfare systems, discrimination, stigma, and poverty—all of which influenced our participants' experiences of sex and sex work.

Decriminalising sex work has created a safer and more equitable sex industry in Aotearoa NZ, but further structural changes are needed to promote greater wellbeing and equity, particularly for takatāpui/LGBTIQ+ people experiencing homelessness. We advocate for the transformation and modernisation of Aotearoa NZ's welfare system in line with the many comprehensive recommendations made by the government-mandated Welfare Expert Advisory Group. In terms of the experiences we have presented in this paper, we specifically highlight the importance of implementing recommendations around restoring trust (e.g., removing sanctions and improving frontline service), reducing the generation of

[49] P Dardot and C Laval, *The New Way of the World*, Verso, London, 2013.

debt (e.g., abolishing the concept of owing debt as a result of receiving support from the welfare state), increasing the amount of support (e.g., increasing benefit rates by at least 40%), clarifying eligibility and relationship status (to make it easier to access support, and reduce incidence of people being fully reliant on their partners for support), and alleviating the housing crisis (e.g., increasing access to affordable and suitable housing support, including public housing).[50]

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[50] Welfare Expert Advisory Group.

On the Streets: Deprivation, risk, and communities of care in pandemic times

Martha Cecilia Ruiz Muriel

Abstract

Following the COVID-19 pandemic, public concerns about 'vulnerable people in street situation' have grown in South American countries. These concerns focus on the risk of sexual violence, exploitation, and human trafficking faced by migrants and women in the sex sector. This article examines these public concerns and the discourses of risk that structure them, taking Ecuador and the border province of El Oro as a case study. It analyses how irregularised migrants and women offering sexual and erotic services talk about 'risk' and 'exploitation', and how they respond to crisis, controls, and restrictions by becoming involved in risky activities and building communities of care. These communities are solidarity alliances that connect and offer mutual support to people confronting deprivation and violence. They are not restricted to the household or the domestic sphere; rather, they constitute different forms of 'family' and 'home' building. The article is based on a participatory research in El Oro, a place with a long history of human trafficking that has not been recognised or studied.

Keywords: risk, care, pandemic, Ecuador, streetification

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Introduction

Latin America and the Caribbean (LAC) has been the region most affected by the COVID-19 pandemic due to pre-existing socioeconomic inequalities. Until February 2022, LAC accounted for 27.8% of all COVID-19 deaths in the world,

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despite having only 8.4% of the global population.[1] This disproportionate mortality rate illustrates the lethal consequences of inequality. However, the impacts of the pandemic extend beyond health concerns. The pandemic negatively impacted the economy, jobs, and personal incomes in LAC countries, while the stay-at-home orders exposed the aggravation of previous housing problems, such as overcrowding and evictions.[2] As a result, many children, elderly people, migrants transiting across the continent, and other groups in situations of vulnerability are sleeping, working, or asking for money on the streets. These experiences, referred to as 'streetification' (*callejización*) or 'street situation'[3] are an expression of the exacerbated inequalities and conditions of precarity and abandonment in LAC.

In this article, I analyse how public concerns and discourses about 'people in street situation' grew during the COVID-19 pandemic and were connected to higher risks of exploitation, sexual violence, and human trafficking among 'vulnerable populations'.[4] I focus on streetification as a process of social and spatial marginalisation in which the street becomes a place of temporary dwelling or informal work, and thus a site that denotes informalisation and precarisation, and, at the same time, as one of the multiple strategies marginalised groups deploy to fight for their lives. I concentrate on streetification in Ecuador, focusing on the street experiences of women in the sex sector and migrants with an irregularised migration status,[5] two groups that were disproportionately impacted by the pandemic and its associated restrictive measures.[6] My aim is twofold: first, to problematise dominant discourses that portray these groups as victims in need of protection and, simultaneously, as potentially risky; and second, to examine

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1 S Cecchini *et al.*, *The Sociodemographic Impacts of the COVID-19 Pandemic in Latin America and the Caribbean,* Economic Commission for Latin America and the Caribbean (ECLAC), 2022.

2 M M Di Virgilio, 'Desigualdades, hábitat y vivienda en América Latina', *Nueva Sociedad*, vol. 293, 2021, pp. 77–92.

3 R4V, '"No Home Away from Home": The situation of evicted Venezuelan refugees and migrants', 2021, https://www.r4v.info/es/news/no-hay-hogar-lejos-de-casa-la-situacion-de-personas-refugiadas-y-migrantes-de-venezuela; G Herrera and G Cabezas, 'Los tortuosos caminos de la migración venezolana en Sudamérica', *Migración y Desarrollo*, vol. 18, no. 34, 2020, pp. 33–56, https://doi.org/10.35533/myd.1834.ghm.gcg.

4 IOM Peru, *Diagnóstico situacional de los delitos de trata de personas y tráfico ilícito de migrantes en la región Tumbes*, IOM, Lima, 2022; R4V, 2021.

5 I use 'irregularised' instead of 'irregular' or 'undocumented' to highlight that this migration status is a direct result of restrictive and selective migration policies.

6 Global Network of Sex Work Projects and UNAIDS Joint Statement, 'Sex workers must not be left behind in the response to COVID-19', April 2020; G Sanchez and L Achilli, *Stranded: The impacts of COVID-19 on irregular migration and migrant smuggling*, European University Institute, 2020, https://doi.org/10.2870/42411.

how sex workers and irregularised migrants talk about 'risk' and 'exploitation', and how they respond to crises, controls, and restrictions by becoming involved in risky activities and building communities of care.

Communities of care is a concept elaborated by Judith Butler to explain how marginalised and stigmatised groups—such as 'sexual dissidents' and 'foreigners' that have been historically linked to epidemic threat and social dangers—oppose increasing inequalities and fight against a state that erodes social services while strengthening police and military power, as we have seen during pandemic times.[7] Communities of care are new and old social networks that connect and offer mutual support to people confronting situations of deprivation and violence. These communities are not based on nuclear heteronormative families and are not restricted to the household, argues Butler: 'they span households, they include people who are unhoused or live without a fixed shelter, who are moving from shelter to shelter, who are migratory in their lives'.[8] Thus, the notion of communities of care suggests that there are different experiences of home, housing, and shelter.

The article draws on findings of a participatory research on the impacts of the COVID-19 pandemic on the southern border of Ecuador,[9] particularly in the El Oro province, a place with a long history of human trafficking that has not been recognised or studied.

Crisis, Risk, and 'Street People' at/of Risk

Crisis is a 'narrative dispositive'[10] that brings to the fore some issues to debate and problems to solve (insecurity, organised crime, corruption), while side-lining others (inequality, poverty, structural violence). Therefore, crisis implies assessment and the discursive production[11] (not merely description) of certain threats and risks that explain a crisis situation and thus deserve urgent public attention, in contrast to 'ordinary' daily life problems. During the COVID-19 pandemic, governmental

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7 J Butler, F Zerán, and E Schneider, 'Pandemic, Democracy, and Feminisms', Online Dialogue, University of Chile, July 2020, https://www.youtube.com/watch?v=zeaVh1EC2fQ.

8 *Ibid.*

9 The study was part of a larger project on human trafficking and migrant smuggling that was coordinated by a local NGO, Fundación Quimera, and financed by the German Agency for International Cooperation, GIZ.

10 J Roitman, *Anti-Crisis*, Duke University Press, Durham and London, 2014.

11 A Hill, 'Producing the Crisis: Human Trafficking and Humanitarian Interventions', *Women's Studies in Communication*, vol. 41, issue 4, 2018, pp. 315–319, https://doi.org/10.1080/07491409.2018.1544008.

and non-governmental actors at national and international levels were highly concerned about a possible rise in human trafficking and, as a consequence, diverse programmes were introduced to tackle this problem; conversely, the aggravated problem of labour informalisation, precarisation, and exploitation attracted less public attention.[12]

Crisis and risk are understood in this article as manifestations of governmentality, that is to say, as practical interventions to regulate the conduct of individuals, collectivities, and populations, whereby 'expert knowledge', media, and popular discourse produce, in the first place, the peoples 'at risk' and 'risky' to be governed.[13] Scholars who adopt a governmentality approach explain that risk management implies a preventive strategy to manage the probable occurrence of undesirable behaviours and 'disorders' within a population. According to Aradau, as risks do not arise from the presence of a concrete danger, but exist in a virtual state and depend on arbitrary correlations, danger and risk are related to specific individuals and groups. 'Risk practices, therefore, concern the qualitative assessment of people', and more specifically risk profiling.[14] Aradau suggests that individuals whose 'profiles' combine various conditions and social characteristics that are considered sources of risk, either for themselves or for others, are categorised as 'high risk'. This is the case of irregularised migrants involved in street-based sex work or 'street people' engaged in commercial sex, who are seen as trafficking victims and, consequently, governed through ambivalent policies that articulate humanitarian and security interventions.[15]

The issue of 'street people' ('*personas en situación de calle*') as a group considered 'at high risk', has been studied as part of 'homelessness' and 'homeless people'—concepts that are critically examined by a growing body of literature.[16] The

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12 See the critical statement made by B Pattanaik, 'Will Human Trafficking Increase During and After COVID-19?', GAATW Blog, 6 August 2020, https://gaatw.org/blog/1059-will-human-trafficking-increase-during-and-after-covid-19.

13 C Aradau, 'The Perverse Politics of Four-letter Words: Risk and pity in the securitisation of human trafficking', *Millennium*, vol. 33, issue 2, 2004, pp. 251–277, https://doi.org/10.1177/03058298040330020101.

14 *Ibid.*, p. 267.

15 M C Ruiz and S Álvarez Velasco, 'Excluir para proteger: la "guerra" contra la trata y el tráfico de migrantes y las nuevas lógicas de control migratorio en Ecuador', *Estudios sociológicos*, vol. 37, issue 111, 2019, pp. 689–726, https://doi.org/10.24201/es.2019v37n111.1686.

16 N Pleace, E O'Sullivan, and G Johnson, 'Making Home or Making Do: A critical look at homemaking without a home', *Housing Studies*, vol. 37, issue 2, 2022, pp. 315–331, https://doi.org/10.1080/02673037.2021.1929859; M Lancione, 'Beyond Homelessness Studies', *European Journal of Homelessness*, vol. 10, issue 3, 2016, pp. 163–176.

pathological perspective and normative framework that have guided mainstream academic literature on people dwelling on the streets are expressed in notions of 'sickness' (poor health and potential contagion, disability, mental illness) and 'sin' (sexual deviance, addiction, irresponsible parenthood, and criminality). Critical analyses question these frameworks and explain that the experiences of people dwelling on the streets are not homogeneous, and are not necessarily permanent: they can be temporal and cyclical and can combine work and begging on the streets and housing in private informal places. What connects these heterogeneous experiences is the continuous dislocation[17] of home, house, and labour due to structural conditions: weak social protection systems, socioeconomic inequalities, and labour market disadvantages based on gender, ethnicity, nationality, and migration status, among others. Likewise, engaged ethnographic researchers argue that street experiences imply physical and psychological distress, including violent policing experiences, and at the same time care relationships and forms of home and community building that are not restricted to the domestic sphere or traditional notions of household: stable, connected to a single place, etc.[18] The concept of homemaking is therefore proposed to analyse how space, affective ties, emotional states (safety, peace) and ideal conditions (economic betterment) build what people call 'home', and to examine how home is experienced without a stable house or home, or on the streets.[19]

The notion of streetification is still limited to the particular context of poverty and lack of social protection in the global south, and it has not been theoretically analysed. Nonetheless, it offers a conceptual vantage as it suggests the systemic processes that create the conditions for socio-spatial marginalisation and vulnerabilisation, in contrast to naturalised conceptions of vulnerability. I engage with the notion of streetification to examine the complex interplay of vulnerability-resistance.[20] Specifically, I explore how the intersection of gender, sexuality, and nationality, as axes of differentiation/hierarchisation, shape experiences of stigmatisation, irregularisation, as well as labour and housing precarity that, in turn, expose migrants and sex workers to violence and exploitation. At the same time, I consider vulnerability as a condition that has

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17 Lancione, 2016.

18 M Lancione, 'Radical Housing: On the politics of dwelling as difference', *International Journal of Housing Policy*, vol. 20, issue 2, 2020, pp. 273–289, https://doi.org/10.1080/19491247.2019.1611121.

19 Pleace, O'Sullivan, and Johnson; P Boccagni, B Armanni, and C Santinello, 'A Place Migrants Would Call Home: Open-ended constructions and social determinants over time among Ecuadorians in three European cities', *Comparative Migration Studies*, vol. 9, 2021, pp. 1-22, https://doi.org/10.1186/s40878-021-00256-y.

20 J Butler, Z Gambetti, and L Sabsay (eds.), *Vulnerability in Resistance*, Duke University Press, Durham and London, 2016.

the potential for individual or collective resistance[21] and, therefore, I examine how these two groups struggle against deprivation, often on the streets, and how they influence their own experiences and life trajectories through risk-taking practices. In this idea of streetification, risk is understood as socially produced within societies that face uncertainty and inequality[22] and differently experienced by different individuals and groups, in different moments and places.[23]

The COVID-19 pandemic implied a unique situation of uncertainty and risk worldwide. Nonetheless, risk of contagion, of losing jobs, income, and shelter, or facing violence unequally affected territories and populations, as I highlight in this article.

Methods

This article is based on a participatory community-based action research. Such research offers the potential to move from 'expert' knowledge production and state-centred policy-making to a collaborative process of reflection and production of ideas, in which the voices and concerns of groups experiencing violence are prioritised, and the experience and knowledge of community-based actors are valorised.[24]

A local NGO working since the mid-1990s with adult and underage women affected by different forms of violence, including sexual exploitation and human trafficking, coordinated the study, with the support of two academic researchers, and two grassroots organisations (a migrant association and a sex worker network) that participated in the various stages of the research process. The objective was to better understand the impact of the COVID-19 pandemic on the dynamics of migrant smuggling, human trafficking, and other, interconnected, modes of exploitation on the southern border of Ecuador, and analyse how individuals and groups affected or at risk explain and respond to these processes. Although it was not initially guided by questions that examined the relationship between streetification and violence, exploratory interviews underlined this nexus.

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21 *Ibid.*

22 U Beck, *Risk Society: Towards a new modernity*, Sage, London, 1998.

23 D Lupton and J Tulloch, "'Risk Is Part of Your Life": Risk epistemologies among a group of Australians', *Sociology*, vol. 36, issue 2, 2002, pp. 317–334, https://doi.org/10.1177/0038038502036002005.

24 H Hoefinger *et al.*, '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*, vol. 9, no.1, 2019, pp. 1–30, https://doi.org/10.3390/socsci9010001.

An exploratory focus group with organised female sex workers, and exploratory interviews with migrants and a key informant from a support organisation, helped to refine the research objectives and questions. The research was conducted from October 2021 to March 2022 in two cities of El Oro: Machala, the province capital, and the border city of Huaquillas. It focused on and worked with adults engaged in informal, stigmatised, and unprotected work, particularly street-based work and services in 'clandestine' bars and brothels that were forced to close due to pandemic restrictions.

Following this, further data collection consisted of four methods, each used to triangulate and strengthen overall findings. These included: 1) peer-to-peer telephone surveys; 2) semi-structured interviews with adults engaged in unprotected work and stakeholders; 3) participant observation; and 4) content analysis.

Peer-to-Peer Telephone Survey

The survey was conducted among 200 adult migrants: mainly women (70%); with irregularised migration status (91%); doing informal and unprotected work (93%), half of them involved in street-based services; and predominantly Venezuelans (80%) who have lived in Ecuador for at least one year. The survey collected data from a larger population of potential victims of trafficking and smuggling. The questionnaire was formulated collaboratively with the persons and institutions that participated in the project. Each question was discussed with the 13 migrants that conducted the survey; they tested the questionnaire and suggested some adjustments. Participants were recruited through community-based organisations.

Semi-Structured Interviews

Following the survey, 15 semi-structured interviews with people working in unprotected jobs[25] and 9 with local authorities and staff of NGOs and international agencies (IAs) that assist 'vulnerable populations' in El Oro, were also conducted.

Participant Observation

In December 2021, two members of a local NGO and myself conducted participant observation at the closed border between Huaquillas (Ecuador) and Aguas Verdes (Peru). During one journey that lasted around six hours, we observed the dynamics of informal crossings—which are not new but changed drastically due to the pandemic restrictions; we crossed the few kilometres that separate

[25] These include independent activities with unstable earnings and no social security, and employees in formal markets but lacking stability and social protection.

these border cities, and we had informal conversations with participants in these movements. In this way, we obtained a first-hand impression of the strategies adopted by residents and migrants to access resources on the 'other side', or to continue their migratory projects in other countries where they intend to build a new 'home' away from 'home'.

Content Analysis

The analysis of dominant discourse on groups at/of risk was based on material obtained through interviews and reports of local and national newspapers, government documents, and the abundant publications of IAs that have mobilised their teams to El Oro to 'aid' migrants and refugees affected by the 'Venezuelan crisis'.[26]

Data Analysis and Triangulation

The triangulation of different data collection methods not only helped to validate the findings in terms of convergence of perspectives and trends across data. It also helped to detect differences within data, including 'counter stories' that disrupt master narratives,[27] and information characterised by ambiguities and grey areas between trafficking and other modes of exploitation, begging, and informal street vending. Two participatory processes of analysis interpreted these data through thematic analysis guided by categories used in the field and in critical studies on migrant smuggling and human trafficking, such as criminalisation, victimisation, precarisation, and resistance.[28]

The project followed the ethical commitments of the organisations involved and articulated in a local network created to formulate participative policies to prevent violence and assist victims.[29] This network, integrated also by local public actors, follows ethical guidelines to interview victims of violence (e.g., active informed consent), and to include their voices in reports or judicial cases, protecting privacy and confidentiality, and preventing re-victimisation. Hence, to protect the confidentiality of interviewees, I use pseudonyms, except for leaders of grassroots organisations who want to visibilise their work.

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26 The Inter-Agency Coordination Platform for Refugees and Migrants from Venezuela (R4V), created in 2018, publishes documents from institutions like the International Organization for Migration (IOM) and the United Nations Refugee Agency (UNHCR).

27 C Cahill, 'Participatory Data Analysis', in S Kindon, R Pain, and M Kesby (eds.), *Participatory Action Research Approaches and Methods: Connecting people, participation and place*, New York, Routledge, 2007, pp. 181–187.

28 See, for example, Ruiz and Álvarez Velasco.

29 Red contra la explotación sexual y la trata de personas, created in Machala in 2007, and reorganised in 2015 as Mesa Técnica contra la violencia de género.

Setting

El Oro (The Gold) is a place with a long history of human trafficking and labour exploitation. During the colonial period, this region became an important supply of gold for the Spanish Empire. Hundreds of indigenous peoples and enslaved Africans worked in goldmines until they died of diseases or physical exhaustion.[30] After independence in 1830, white-mestizo elites reproduced hierarchical social and labour relations and sustained an economic model based on the exploitation of natural resources and mobile labour force.[31] This model explains the economic dynamism and, simultaneously, the social inequalities in El Oro. The province attracts internal and intraregional migrant workers to export-oriented extractive industries: gold, cocoa, shrimp, and primarily the banana market. These industries offer income opportunities but precarious labour conditions to informal workers, just like the sex and erotic markets that expanded in the province hand-in-hand with extractive economies.[32]

In Ecuador, indoor commercial sex is tolerated and regulated as a public health issue and, simultaneously, stigmatised and not recognised or protected as work. Street-based commercial sex is considered 'clandestine prostitution' and therefore outlawed and criminalised. During the COVID-19 crisis, however, all forms of sexual and erotic services were banned due to health concerns. Likewise, cross-border mobility was restricted to prevent the spread of the virus.

Risk Discourses and Restrictions at the Border

The Ecuadorian and Peruvian governments closed their shared land border for two years, from 16 March 2020 to17 February 2022. Closure of 'non-essential' businesses was extended until mid-2021. These restrictive measures drastically transformed daily life at the Ecuador-Peru border, which has enjoyed free circulation agreements since 1998.

The livelihoods of border populations were particularly affected by the COVID-19 restrictions. In Huaquillas, formal and informal cross-border trade represents around 80 per cent of total economic activities.[33] Traders move across the border

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30 V Poma Mendoza, *El Oro de la conquista española*, Gobierno Provincial Autónomo de El Oro, Machala, 2000.

31 R Murillo Carrión, *Zaruma, historia minera: Identidad en Portovelo*, Ediciones Abya-Yala, Quito, 2000.

32 M C Ruiz, *Transacciones eróticas en la frontera sur de Ecuador*, FLACSO Ecuador, Quito, 2022.

33 Gobierno Autónomo Descentralizado de Huaquillas, *Actualización del Plan de Desarrollo y Ordenamiento territorial del cantón Huaquillas*, 2018.

to buy and sell, as self-employed unprotected workers, and many live hand-to-mouth. With restrictions to move and work, living conditions became extremely harsh, and outlawed activities expanded, such as informal cross-border facilitation. Likewise, migrants transiting Ecuador were severely impacted by mobility restrictions. During the first weeks of the pandemic, dozens of Venezuelan migrants were confined in border cities, with no home to stay in, and pushed to sleep in parks and other public spaces of Huaquillas and Aguas Verdes.[34]

During interviews with border residents and local authorities in Huaquillas and Machala, in late 2021 and early 2022, 'the problem of migrants in street situation' was still a public concern. Some expressed compassion, others described it as nuisance due to health and security issues, and many a combination of both. Several referred to children economically exploited in 'forced begging' and migrant women involved in 'survival sex' and sexually exploited. As begging and commercial sex are linked to social and legal conceptualisations of human trafficking,[35] the above-mentioned situations were assumed to be trafficking cases.[36] Others mentioned drug trafficking and consumption among those living on streets and in parks, as regularly reported in newspapers.[37] In contrast to local authorities, a trade leader recalled that the presence of migrants on the street is not new in Huaquillas. During 2019, many Venezuelan migrants got stranded in this and other border cities after Peru and Ecuador imposed visa restrictions and temporarily closed their borders.[38] Some of these migrants stayed in Huaquillas, but most headed to other countries of the Americas. The trade leader underlined the 'dramatic' situation of 'foreigners' on the streets, especially women that are perceived as victims of human trafficking and simultaneously as 'prostitutes':

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34 No author, 'El drama de los extranjeros varados en línea de frontera entre Ecuador y Perú por el coronavirus', *Correo*, 16 April 2020, https://diariocorreo.com.ec/41418/portada/el-drama-de-los-extranjeros-varados-en-linea-de-frontera-entre-ecuador-y-peru-por-el-coronavirus.

35 The Ecuadorian Penal Code includes human trafficking for the purpose of 'mendicity', which is implicitly conceived as forced and exploited (Art. 91, 6). It also includes trafficking for the purpose of sexual exploitation and forced prostitution. These three are the most visibilised forms of trafficking.

36 During 2020 and 2021, Ecuador's official human trafficking statistics reported a drastic decrease in formally registered cases, in contrast to media and IA reports that alerted about an increase in the number of trafficked persons. Official statistics are flawed, but so are other 'hard' facts on human trafficking; they reflect pervasive issues with identification and reporting.

37 C Gavilanes, 'Venezolanos desalojados de albergue temporal', *Correo*, 10 May 2021, https://www.diariocorreo.com.ec/55803/cantonal/venezolanos-desalojados-de-albergue-temporal.

38 Herrera and Cabezas.

'White slavery (*trata de blancas*)[39] became a big problem in early 2020. Many Venezuelan women were desperate because they had nothing to eat. I don't know if they were prostitutes before, in their origin country, but here they went to the streets, to corners, to sell their bodies'.[40]

IAs providing assistance to 'vulnerable groups' have suggested that 'street situation' and 'risk situation' go hand-in-hand.[41] They have argued that, during the pandemic, mobility restrictions and evictions aggravated the living conditions of Venezuelan migrants and refugees,[42] and, as a consequence, these groups have been more exposed to violence, including human trafficking.[43] According to IA reports and interviews with IA staff, criminal networks represent the 'main protection risk'[44] for migrants and refugees, especially unaccompanied minors, and women who travel alone and are heads of households.[45]

IAs pay particular attention to women's vulnerability to sexual violence, and in so doing they conflate forced prostitution, trafficking for the purpose of sexual exploitation, and sex work. For instance, some IA reports refer to 'women in a situation of prostitution' and 'sex workers' without distinguishing between the two or using them interchangeably;[46] they also conflate 'sexual violence survivors', and women involved in 'transactional sex'.[47] By contrast, organised sex workers and leaders of migrant organisations working directly and more consistently with populations in situations of vulnerability make clearer distinctions. One of these leaders, a Venezuelan woman who participated in this and other peer-to-peer projects, explained that, during the pandemic, 'more migrants turned to survival sex' because they lost their jobs, income, and shelter. 'Sex work also increased

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39 This old term is still used in Ecuador, but 'trafficking in persons' is used in official documents.

40 Interview, 16 December 2021.

41 R4V, 2021.

42 *Ibid.*

43 R4V, *COVID–19 aumenta la vulnerabilidad a la trata y el tráfico para personas refugiadas y migrantes de Venezuela: Mensajes clave para la comunidad y las personas refugiadas y migrantes*, 2020, https://www.r4v.info/pt/node/4724.

44 UNHCR, *Monitoreo de Protección – Informe Región Costa, Septiembre 2021,* UNHCR, p. 51; GTRM Ecuador, *Evaluación Rápida Interagencial – Huaquillas*, February 2021.

45 *Ibid.*

46 OEA/R4V, *Impactos de la COVID-19 en personas refugiadas y migrantes de Venezuela. Personas desalojadas, trabajadoras sexuales y pueblos indígenas*, 2021.

47 R4V, *Violencia basada en género. Consultas regionales a grupos con impactos desproporcionados: Necesidades y propuestas para el 2022*, January 2022; CARE, *Una emergencia desigual: Análisis Rápido de Género sobre la Crisis de Refugiados y Migrantes en Colombia, Ecuador, Perú y Venezuela*, CARE, June 2020.

among migrants and Ecuadorians for whom this activity was their work before the pandemic. And there is also sexual exploitation, particularly against girls'.[48]

Civil society organisations also distinguish between small informal groups engaged in illicit activities and structured criminal networks. Nonetheless, the discourses of these local actors have not been as influential as the reports of IAs that offer 'technical assistance' on migration issues, human trafficking, and 'border management' to Ecuadorian authorities,[49] or the sensationalist media coverage of gangs' criminal activities across the border.[50]

Ecuadorian authorities use the language of human rights to refer to people in 'street situation' and other 'vulnerable groups' and fund a safe shelter for adolescent victims of trafficking for the purpose of sexual exploitation, opened in Machala in 2008. However, governmental responses towards irregularised migrants and adult women in the sex sector have centred on controls, restrictions, and exclusionary measures. Some of these measures are expressed in the 2021 migration legislation reform, which speeds up deportations of migrants considered a 'threat' to public security, and introduces the concept of 'risky migrations',[51] which is used in public awareness campaigns on human trafficking and migrant smuggling, and to justify migration restrictions.[52]

As Deborah Lupton argues, discourse of risk has a political and moral function, and is often used to 'blame victims' for their irresponsible and socially unacceptable behaviour (such as working without a visa or taking children to the streets to beg or work) and thereby exert control of 'risky bodies'.[53] This is particularly common in crisis situations that are instrumentalised to push through controls and exclusionary measures. Hence, in Huaquillas, local authorities removed unhoused migrants from public spaces like parks and 'touristy places' that were used as informal shelters, arguing that those spaces have turned into 'dumps', 'sites for mendicity and thus delinquency', and activities that 'contravene morality'.[54]

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48 Interview, 28 October 2021.

49 Ruiz and Álvarez Velasco.

50 No author, 'Traiciones y deudas, causas de muertes violentas entre bandas delictivas', *Primicias*, 4 April 2022, https://www.primicias.ec/noticias/en-exclusiva/traiciones-deudas-ejecuciones-bandas-delictivas-ecuador.

51 Registro Oficial No. 386, *Ley Orgánica Reformatoria de la Ley Orgánica de Movilidad Humana*, February 2021, Art. 3, 15, and 143, 7.

52 Ruiz and Álvarez Velasco.

53 D Lupton, 'Risk as Moral Danger: The social and political functions of risk discourse in public health', *International Journal of Health Services*, vol. 23, no. 3, 1993, pp. 425–435, https://doi.org/10.2190/16AY-E2GC-DFLD-51X2.

54 Gavilanes.

During the pandemic, the Ecuadorian state apparatus was deployed at border territories through military and police agents that controlled unauthorised activities. In contrast, state protection was limited. The Emergency Family Protection Grant, that intended to cover 'vulnerable populations', especially informal workers, had a reduced scope and encountered difficulties in reaching unregistered populations.[55] Likewise, the temporary suspension of evictions was insufficient to prevent abuses from landlords,[56] and inspections to prevent workers' exploitation and protect those already affected were practically non-existent,[57] despite complaints about abusive practices in formal and informal economic sectors, primarily export-oriented private enterprises.[58]

I now turn to analysing risk perceptions and risk-taking among irregularised migrants and sex workers, for whom the streets have multiple and contradictory meanings.

Daring Women and 'Clandestine' Resistance

The language of 'risk' and 'exploitation' is also common among irregularised migrants and women in the sex sector, although with connotations that differ from those analysed in the previous section. These groups connect threats and risks to problems that affect their daily lives, such as unstable work, low income, and stigmatisation, and are seen as directly related to their nationality, gender, migration status, and the type of work they do. They also connect risk to their struggles to confront poverty and their efforts to improve their living conditions and move ahead. Phrases like 'I took the risk' (*me arriesgué*) or 'I've always been a risk-taking person' (*siempre he sido arriesgada*) were used during interviews to explain decisions to migrate, informal border crossings, and involvement in outlawed commercial sexual activities.

Two Ecuadorian and two Venezuelan women involved in sexual and erotic activities in Machala explained the deterioration of their economic situation and working conditions due to pandemic restrictions, and mentioned 'harsh' experiences of eviction and street-based work. Hence, they exposed that the spatial dimension of the pandemic has particularities when it comes to impoverished

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55 M G Palacio Ludena, 'Ecuador's Social Policy Response to Covid-19: Expanding protection under high informality', CRC Covid-19 Social Policy Response Series, 14, Universität Bremen, Bremen, 2021, https://doi.org/10.26092/elib/912.

56 *Ibid.*

57 There is only one public defender in charge of labour exploitation cases in El Oro.

58 V Novillo Rameix and R Paganini, 'Trabajadores bananeros: la explotación por la exportación', *Mutantia.Ch*, 23 August 2020, https://mutantia.ch/es/trabajadores-bananeros-la-explotacion-por-la-exportacion.

people: they could not stay at home because many lost their 'homes' during evictions; others turned to the streets or to 'clandestine' businesses to earn an income. This is how Ericka (Ecuadorian) and Gabriela (Venezuelan) explained their struggles against deprivation during pandemic times, underlining state abandonment, discrimination, and abuse from multiple actors.

> *In the beginning, it was impossible to work, [sex] businesses were all closed; I didn't have savings or another source of income. We didn't receive any help from the state or the mayor; we were discriminated against and seen as vectors of disease […]. I tried [to make a living] on the streets because I was alone with my 5-year-old child, with no money to pay the rent. I was thrown out of the house and the landlord didn't let me take my stuff […]. Initially, police controls were strict on the streets. Then, when people started to go out, it was very hard to find something on the streets because the old girls [las antiguas, the women that have been working on the streets for a long time] were controlling some corners and they decided whether you could work there or not. The street is a tough place [la calle es dura].* (Ericka, 36)

> *For us [migrants], it was even worse without papers. Before [the pandemic], I was working in a bar, and from time to time I turned tricks with clients to get some extra money […]. My economic situation was okay, but I had to work day and night in the bar; it was too much exploitation. Then, with the pandemic, bars closed and for the first time I went to the street with a [girl] friend, but the police pulled us out. I didn't have money to pay the rent so two times I was kicked out. Last time I moved with a friend, and now I have a small room for me and my two children, so I had to go back to the streets.* (Gabriela, 29)

The above quotes indicate that street experiences are not restricted to houselessness or begging. They also include informal street work that, during the pandemic, became a central place to find economic opportunities, and, simultaneously, a site of instability, risk, and violence. In the phone survey, nearly half of the respondents reported experiences of violence in Ecuador, and from this group, 32 per cent mentioned violent robberies on the streets. Migrant women also mentioned sexual harassment and inappropriate touching on the streets and in workplaces (44 per cent). Home and family, far from being the idealised spaces of peace and security, were also sites of violence for participants. Nearly a third of female respondents (29 per cent) and a fifth of male respondents (19 per cent) mentioned experiences of domestic violence. Other experiences of abuse and violence were also underlined in the survey and during interviews: unjustified retention of money from private employers and bar owners, extortion from 'gangs' that ask for money in exchange for 'protection', and labour exploitation.

The experiences of violence affecting sex workers and irregularised migrants in El Oro exacerbated after the pandemic. Although they did not directly mention trafficking, probably because they were unsure about what human trafficking is, the survey and interviews revealed that they had experienced some forms of exploitation that bore resemblance to trafficking. Thirteen per cent had faced some form of coercion or duress in their work experiences in Ecuador. A much larger group—51 per cent of women and 48 per cent of men—had received 'deceptive' job offers. These offers included jobs with low wages and long working hours that differed from the initial agreement between respondents and employers.

The pandemic also reinforced unemployment rates and inadequate working conditions in El Oro,[59] pushing more workers to independent but unstable income-generating activities: food vending, informal clothes selling through WhatsApp, street-based sex work, and waste recycling. Those who lost their means of survival during the pandemic turned to the streets to 'sell candies' or ask for money (10 per cent of survey respondents[60]), activities that are not necessarily forced and expose the blurred boundaries between informal street-based work and begging. In the survey and interviews, participants avoided the notion of 'begging' that is associated with laziness, even among migrants. A young Venezuelan woman (23) that offers candies in exchange for money near traffic junctions, with her two small children beside her, defined this activity as 'selling' and 'my work'.[61] She mentioned that revenues 'are not so bad' and help her from time to time with the rent costs of the small 'leaky' house that she shares with a Venezuelan friend.

Many impoverished migrants in El Oro were living with friends and relatives, in temporary and overcrowded or unsuitable places, before the COVID-19 outbreak, and afterwards moved to similar places. In contrast to transit migrants, who were in temporary shelters or slept on the streets, participants in this research received housing support from their social networks. The research revealed, however, that disenfranchised groups face more risks and are more likely to take risks. Working at night in unauthorised businesses where they have to hide during police raids and, in the case of irregularised migrants, and resisting border restrictions through informal border-crossings, are part of daily life experiences of risk.

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59 In this province, only 32 per cent of the population has adequate working conditions, with social security, and at least the minimum wage. ENEMDU-INEC, *Indicadores laborales*. IV trimestre de 2021.

60 In contrast, only 1 per cent of those who lost their jobs mentioned sex-for-money exchanges.

61 Some authors have studied street begging as work. See: K Swanson, '"Bad Mothers" and "Delinquent Children": Unravelling anti-begging rhetoric in the Ecuadorian Andes', *Gender, Place and Culture*, vol. 14, issue 6, 2007, pp. 703–720, https://doi.org/10.1080/09663690701659150.

The story of Gabriela illustrates how vulnerability and resistance shape the experiences of risk and risk-taking of marginalised individuals, and how they build a sense of home and family across borders. For her and other migrant women, sexuality is a site of othering and violent ordering, and, simultaneously, of resistance. Therefore, they use their eroticised 'foreign' bodies to access resources, and they rely on different peoples and networks to move ahead and achieve their life projects.

> *When I arrived in Ecuador, in March 2019, there was no visa [restriction] yet; however, the border was closed because there were massive numbers of Venezuelans trying to cross. So, I crossed by trocha [informal crossing point] with a girlfriend; we paid 20 dollars each to a guy that helped us cross. Oh, that was frightening! He took us in a big, packed truck, through some ugly paths. In Machala, I started working right away because I had a Venezuelan friend who took me to bars and brothels. It was my first time, only in Ecuador I have done this because there are no other options for us, foreigners, women, illegal, and I have to send money to my children, to my mother. […]. In the beginning, it was okay, I had some money, so I brought my children. They came with my sister and mother; they also crossed by trocha. It was risky, but I needed to have my family with me, I was missing my home. My mother went back and my sister stayed. With the pandemic, everything, work, money was gone. Thank god there were [some organisations], PLAPERTS, La Salita,*[62] *that helped and cared about us.*[63]

Communities of Care, Homemaking, and the Politics of the Street

Many informal workers became infected with COVID-19 in early 2020, when they went out to work or support others. This was the case of Karina. Karina Bravo, an Ecuadorian woman and internal migrant living in Machala since her early 20s, is one of the leaders of the first sex worker organisation in Ecuador and, some say, in South America: Asociación de Mujeres Trabajadoras Autónomas 22 de Junio, founded in 1982 in Machala. She is also the regional coordinator of PLAPERTS, the Latin American sex workers' platform that has national and local chapters and played a key role in supporting women, men, and transgender people that did not receive any support from the state during the pandemic. Karina did not get public healthcare because public hospitals in El Oro and nearby cities were overcrowded and had limited resources. Therefore, she turned to her social

[62] PLAPERTS (Plataforma Latinoamericana de Personas que Ejercen el Trabajo Sexual) is the Latin American Platform for People in Sex Work, and La Salita is a programme of PLAPERTS-Ecuador in Machala.

[63] Interview, 28 October 2021.

network to receive health information and medication: doctors working with sex workers' organisations in several Ecuadorian cities, middle-class feminist allies, organised sex workers in Machala, etc.

When other informal workers that became sick had no resources to buy food and pay the rent, or were evicted, they also received support from social networks that offered physical and virtual care. Vanesa (33), a Venezuelan migrant that received support from a local sex worker organisation that she later joined, recalled that the pandemic made her life 'a lot harder'. The migration regularisation process was not really an option for her because visa procedures and costs are complicated and unaffordable. Therefore, she went to hotels with 'old clients' and she worked in 'clandestine bars'. To feel safe, 'cared for' and, thus, 'at home', she relied on her social networks.

> *In those places [clandestine bars, hotels] we risk our lives. But we [sex workers] call each other to check if everything is okay, and we support each other. The first time I heard of PLAPERTS was through a neighbour. She took me to La Salita, where I received a food kit. Then I started participating in the organisation. It's very important to be organised, you are safe. I feel more at home, supported, and I feel that they [other women in the organisation] care about me.*[64]

Organised sex workers raised funds and built channels of 'solidarity and sisterhood' (*solidaridad y sororidad*) to 'move forward', beyond a state that 'discriminates' and selectively decides 'who has the right to eat', 'who has the right to live'.[65] Although this and other grassroots organisations are not free of tensions and divisions,[66] during the pandemic, some of them strengthened. The support they received from local NGOs and IAs working with women and migrants was, without a doubt, essential. During the first weeks of the pandemic, and without state support, migrants, sex workers, and other informal workers largely depended on IA humanitarian programmes for survival. These programmes are, however, temporary or restricted to temporal 'aids' (food kits, for instance). Therefore, migrants and sex workers created peer groups and strengthened existing networks, national and regional, to share and tackle common problems, among 'equals', as some interviewees said.

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64 Interview, 26 November 2021.

65 PLAPERTS, 'Manos solidarias para las trabajadoras del sexo en época de COVID-19' [Helping Hands for Sex Workers in Times of COVID-19], 20 June 2020, https://fundrazr.com/11flL3.

66 Among sex worker organisations, for instance, divisions sometimes take place between 'nationals' and 'foreigners', in-doors and street-based workers.

Marginalised groups face significant stigma that translates into a deep distrust of existing structures.[67] This includes distrust of authorities, but also of service providers who, in turn, express suspicion and distrust toward stigmatised women and 'foreigners' that are perceived as 'different', 'problematic' or 'aggressive', as interviews in El Oro revealed. Therefore, migrants and sex workers create their own safe spaces and their own networks to give and receive support. In so doing, they build communities of care that, as Butler says, are solidarity alliances that develop amid capitalist inequalities.[68]

Communities of care point to something more radical than 'resilience' or how marginalised individuals and groups cope with deprivation and crisis situations. These 'infrastructures of care' imply different experiences of building home and being at home, and different experiences of household and dependency. Therefore, Lancione's idea of dwelling as a political act of 'difference' is relevant here. The author explains:

> *[…] there is really no 'building' and no 'caring' if dwelling is just taken as a habitus, as a conserving given. In order to care and to build one needs to be 'concerned with something', that is, to be political about his/her own habitus of dwelling. Analytically, this means to unpack dwelling and take it as contestation.*[69]

In July 2020, after four months of restrictions on movement and economic activity, and with sex and erotic businesses still closed, organised sex workers protested on the streets of Machala and demanded the 'right to work', and thus the opening of brothels, nightclubs, and bars. They carried banners with a clear message: 'covid will not kill us, hunger will'. In this and other public street actions, sex workers turned the streets into a site of political struggle. That is to say, they occupied public space to claim rights, and in doing so, they contested the hierarchies and norms that structure what is considered the public and common good.[70] In this way they complicated social imaginaries about vulnerable populations as passive and voiceless and, through public protest, they showed that marginalised people not only suffer on the streets; they also struggle and build social and political alliances.[71]

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67 International Committee on the Rights of Sex Workers in Europe, *From Vulnerability to Resilience: Sex workers organising to end exploitation*, ICRSE, 2021, https://www.eswalliance.org/report_on_sex_work_migration_exploitation_and_trafficking.

68 Butler, Zerán, and Schneider.

69 Lancione, 2020, p. 6.

70 J Butler, 'Bodies in Alliance and the Politics of the Street', European Institute for Progressive Cultural Policies, 2011.

71 *Ibid.*

Image 1. Organised sex workers marching on the streets of Machala, June 2020. Image credit: PLAPERTS.

Just like sex workers' support networks strengthened during pandemic times, so did migrant networks in El Oro and other Ecuadorian provinces. An example of this is the Association of Venezuelans Abroad (AVOE) that was founded in Huaquillas and now has branches in other cities. Magcleinmy Chirinos is one of the leaders of this network. She recalled that, although initially she did not want to participate in the organisation because she moved to Ecuador with the idea of focusing only on work, she finally decided to do so because she 'cares' (*me importa*) and she wants to 'change things'. Caring for others and struggling to transform an unequal reality pushed Magcleinmy to the streets of Huaquillas, where she offers support to compatriots in vulnerable situations, and partakes in several projects and public activities to promote and secure migrants' legal and social rights. This is how she explains 'family' and 'home' building among organised migrants.

> *We started organising because in 2019 there were already a lot of Venezuelans on the streets. I thought that although I had a lot of problems too, with work, income, and so on, at least I have a house to live in and rest. I also thought that no other organisation or institution could do better than us. We are compatriots, a family, we feel at home when we are together, and there is no one better than us to understand our problems, needs, and dreams. Organising with your peers is crucial to reach common objectives.*[72]

[72] Interview, 16 December 2021.

Image 2. Members of AVOE in a public activity on the streets of Huaquillas, December 2021. Image credit: AVOE.

Conclusion

The participatory research on which this article is based complicates common notions of 'vulnerable people in street situation', as well as the 'risks' they encounter in contexts of 'crisis'. During the pandemic, deprived and stigmatised populations, like irregularised migrants and sex workers, were certainly exposed to greater hazards, including human trafficking and other forms of exploitation. However, these hazards cannot be explained solely with an expansion of transnational organised criminal networks or with naturalised conceptions of vulnerability that often refer to unaccompanied women. Restrictions to move and work played a central role in the configuration of 'risks' during pandemic times. Likewise, structural conditions of inequality, and the contradictory absence/presence (lack of social protection and simultaneously surveillance and control) of the state in El Oro and other South American border territories, both in ordinary and extraordinary times, can better explain 'illicit' and 'risky' activities in these territories.

Paying close attention to the situated experiences, narratives, perceptions, concerns, and expectations of 'vulnerable groups'—that do not necessarily understand human trafficking in the same ways as state actors, IAs, journalists, or academics—are crucial to rethinking preconceived notions about these groups.

The stories here illustrate that people experiencing a continuous dislocation of home, house, and labour build communities of care that offer material resources and emotional support, and build a sense of safety, family, and home that is not restricted to the domestic sphere or to a single and fixed place. Moreover, communities of care build political alliances and can turn the streets into a site of political struggle.

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Of House and Home: The meanings of housing for women engaged in criminalised street-based sex work

Corey S Shdaimah, Nancy D Franke, Todd D Becker, and Chrysanthi S Leon

Abstract

Despite emerging as a core concern for street-based sex workers participating in prostitution diversion programmes (PDPs), housing has received limited empirical attention. In this article, we explore the meanings of housing in the context of court-affiliated PDPs in the US cities of Baltimore and Philadelphia based on interviews and focus groups with 31 PDP participants and 32 criminal legal system professionals. Three themes emerged: (a) housing precarity and crisis mode, (b) housing as a foundation, and (c) housing as an idea(l). PDPs prioritise therapeutic interventions targeting individual behaviours and attitudes over meeting basic needs, often placing programme participants in substandard housing and removing them from existing networks of support. Such prioritisation, which often conflicts with participants' expressed preferences, does not always leave them better off in the short or long term. PDPs' neglect of the quality, type, and meaning of housing reveals and reinforces a fundamental disregard for people in street-based sex trade as multifaceted, agentic human beings. We conclude that programmes must prioritise home as a 'comfort zone' that must be afforded to all people.

Keywords: housing, street-based sex work, mandated treatment, diversion programmes

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Housing trajectories play a crucial role in the lives of those who are impacted by the United States (US) criminal legal system. People who were formerly incarcerated are ten times more likely than their never-incarcerated counterparts to experience homelessness, with rates of homelessness particularly high among women and

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people of colour.[1] Housing precarity and loss have many detrimental effects that can easily cascade into other areas of life, creating a mutually reinforcing cycle of loss.[2] For example, loss of housing can lead to transportation disruption that makes it hard to sustain employment; in turn, this loss of employment can make it difficult to regain or sustain housing.

In the US, this very experience of housing precarity and loss can lead to criminal legal system involvement. In many jurisdictions, people who are unhoused face heightened exposure to surveillance and may also engage in illegal activities as a matter of survival.[3] Once involved in the criminal legal system, these individuals are often further marginalised by cumulative punishments and prohibitions that limit opportunities for legal employment, housing, and democratic participation.[4] Therefore, housing is often viewed as a keystone of stability in that it is a crucial factor impacting people's ability to survive and thrive. Indeed, housing-first programmes have been touted as successful along with a variety of measures in the area of mental health and substance use disorder treatment and as alternatives to incarceration in terms of reduced police contact, reduced incarceration, remaining housed, and recidivism rates.[5]

Among these criminalised activities is sex work. Street-based sex work in the US is criminalised in every state, although a handful of localities have implemented partial decriminalisation measures, such as Baltimore City's mayoral decree[6] and Philadelphia's moratorium on prosecution of sellers.[7] Criminalisation has many

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1 L Couloute, 'Nowhere to Go: Homelessness among formerly incarcerated people', Prison Policy Initiative, August 2018, https://www.prisonpolicy.org/reports/housing.html.

2 M Desmond, *Evicted: Poverty and profit in the American city*, Crown, New York, 2016.

3 R J Miller, *Halfway Home: Race, punishment, and the afterlife of mass incarceration*, Little, Brown and Company, New York, 2021.

4 M Gottschalk, *Caught: The prison state and the lockdown of American politics,* Princeton University Press, Princeton, 2014.

5 M K Cunningham *et al.*, 'Breaking the Homelessness-Jail Cycle With Housing First: Results from the Denver Supportive Housing Social Impact Bond Initiative', Urban Institute, 15 July 2021, https://www.urban.org/research/publication/breaking-homelessness-jail-cycle-housing-first-results-denver-supportive-housing-social-impact-bond-initiative.

6 P Schwartzman, 'In Crime-Battered Baltimore, a Halt to Some Drug and Prostitution Prosecutions Is Causing Fresh Anxiety', *The Washington Post*, 10 April 2021. In Baltimore City, these changes are being reversed by the State's Attorney Ivan Bates, who began his term in January 2023, see: P Gessler, 'Baltimore City State's Ivan Bates to try man charged for murdering cellmate', *CBS News*, 20 January 2023.

7 A Steele and J Terruso, 'Kensington Symbolizes the Promise and Peril of Philly DA Larry Krasner's Policies as He Seeks Reelection', *The Philadelphia Inquirer*, 15 May 2021.

negative consequences, including limiting sex workers' access to legal employment, public benefits, and crucial networks of social and material support as well as loss of custody of their children.[8] It is not surprising, therefore, that women engaging in street-based sex work, who are the primary targets of prostitution arrests and incarceration, often report unstable housing or homelessness.[9] Sex work may also constitute the basis for eviction or for exclusion from public housing.[10] The stigma attached to sex work, compounded by lack of financial resources or supportive networks, makes it difficult to obtain housing; sex workers who are housed in shelters or temporary transitional housing are often subject to poor-quality living conditions that leave them vulnerable to violence and exploitation.[11]

Prostitution diversion programmes (PDPs) have been promoted over the past two decades as a rehabilitative alternative to criminal justice consequences of criminalisation. Grounded in a philosophy of what Musto calls 'carceral protectionism',[12] PDPs largely remain embedded within criminal legal systems that rely on the threat of criminal legal consequences to mandate services.[13] This is made possible, in large part, due to the hegemony of trafficking lenses that are applied to policy and programming related to sex work. These lenses construct sex workers primarily as victims of coercive circumstances who simultaneously and

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8 Amnesty International, *Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers*, 26 May 2016, https://www.amnesty.org/en/documents/pol30/4062/2016/en.

9 C C McNaughton and T Sanders, 'Housing and Transitional Phases out of "Disordered" Lives: The case of leaving homelessness and street sex work', *Housing Studies*, vol. 22, issue 6, 2007, pp. 885–900, https://doi.org/10.1080/02673030701608043; N Riddle, 'Sex Workers Struggle to Find Housing in DC. A bill to decriminalize their job can help', *Greater Greater Washington*, 17 July 2019; J Thukral and M Ditmore, 'Revolving Door: Analysis of street-based prostitution in New York City', Sex Workers Project at The Urban Justice Center, 23 June 2003, pp. 61–62, https://sexworkersproject.org/downloads/RevolvingDoor.pdf.

10 C Breakstone, '"I Don't Really Sleep": Street-based sex work, public housing rights, and harm reduction', *CUNY Law Review*, vol. 18, issue 2, 2015, pp. 337–373, https://academicworks.cuny.edu/clr/vol18/iss2/6.

11 L Lazarus *et al.*, 'Risky Health Environments: Women sex workers' struggles to find safe, secure and non-exploitative housing in Canada's poorest postal code', *Social Science & Medicine*, vol. 73, issue 11, 2011, pp. 1600–1607, https://doi.org/10.1016/j.socscimed.2011.09.015.

12 J Musto, *Control and Protect: Collaboration, carceral protection, and domestic sex trafficking in the United States*, California University Press, Berkeley, 2016.

13 T T Cai *et al.*, *Diversion from Justice: A rights-based analysis of local "prostitution diversion programs" and their impacts on people in the sex sector in the United States*, Yale Law School and School of Public Health in cooperation with the Sex Workers Project of the Urban Justice Center, September 2018, https://nswp.org/sites/default/files/diversion_from_justice_ghjp_-_2018.pdf.

paradoxically can be (dis)incentivised to transcend these coercive circumstances to stop engaging in sex work.[14] This approach is so pervasive and unreflective that a number of PDPs call themselves human trafficking courts, in spite of the fact that participants enter these programmes as individuals who have been arrested for sex work.[15] Using human trafficking as a justification for criminalising sex work in order to provide assistance may be unhelpful at best and risks psychological harm (such as re-traumatisation) and compounding financial and social stigma and marginalisation.[16]

Concerns have been raised that PDPs replicate the same negative consequences created by more traditional forms of sex work criminalisation, including stigma, and social and financial precarity that negatively impact housing.[17] Housing is a core concern among street-based sex workers who participate in the court-affiliated PDPs that we have studied in the US cities of Philadelphia and Baltimore.[18] On the 2021 Housing Precarity Risk Indicator, the Philadelphia and Baltimore metro areas are ranked 8th and 20th, respectively, out of the country's 53 metropolitan areas of over 1 million people. Philadelphia's Office of Homeless Services,[19] which responds to over 15,000 people per year, set reducing the experience of homelessness among individuals who are exiting institutional settings, such as prison, as one of the success indicators of their five-year strategic plan. Similarly, Baltimore is engaged in efforts to reduce homelessness heightened

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14 C S Leon and C S Shdaimah, '"We'll Take the Tough Ones": Expertise in problem-solving justice', *New Criminal Law Review*, vol. 22, issue 4, 2019, pp. 542–584, https://doi.org/10.1525/nclr.2019.22.4.542.

15 K Miner-Romanoff, 'CATCH Court: Changing actions to change habits—A preliminary evaluation study', *Journal of Human Trafficking*, vol. 3, issue 2, 2017, pp. 136–162, https://doi.org/10.1080/23322705.2016.1194039.

16 C S Shdaimah, C S Leon, and S A Wiechelt, *The Compassionate Court? Support, surveillance, and survival in two court-affiliated prostitution diversion programs*, Temple University Press, forthcoming.

17 A Gruber, A J Cohen, and K Mogulescu, 'Penal Welfare and the New Human Trafficking Intervention Courts', *Florida Law Review*, vol. 68, issue 5, 2016, pp. 1333–1402; A Ray and E Caterine, *Criminal, Victim, or Worker: The effect of human trafficking intervention courts on adults charged with prostitution-related offenses*, Red Umbrella Project, 2014, https://www.nswp.org/sites/nswp.org/files/RedUP-NYHTIC-FINALweb.pdf.

18 N Gesser and C S Shdaimah, '"I'm Doing Everything Right All Over Again": How women manage exiting street prostitution over time', *Journal of Qualitative Criminal Justice & Criminology*, vol. 10, issue 4, 2021, https://doi.org/10.21428/88de04a1.e639c1ce.

19 E Hersh *et al.*, *Roadmap to Homes: Philadelphia's five-year strategic plan for the homeless assistance system*, Philadelphia Office of Homeless Services, 2018, http://philadelphiaofficeofhomelessservices.org/wp-content/uploads/2018/11/ohs-2018-road-map-strategic-plan.pdf.

by the COVID-19 pandemic in a partnership with the US Department of Housing and Urban Development.[20]

Extant literature focuses on shelter as the key feature or 'need' for those who exchange sex for survival. However, far less attention is paid to the multiple functions of housing while under the supervision of the criminal legal system in the US, where sex work remains illegal. This article explores the meanings of housing in the context of PDPs. We draw on data from interviews and focus groups with PDP participants who entered these programmes after arrest for street-based sex work ('participants') and criminal legal system professionals in two court-affiliated PDPs for street-based sex workers charged with the criminalised offence of selling sex. The PDPs and professionals who work therein focus on shelter, whether in the context of other treatment requirements (e.g., recovery from substance use disorders) or independently. As in other diversion programmes, these hyper-regulated programmes are also a means for surveillance and social control.[21] Thus, even if PDPs help participants secure and maintain housing, doing so comes with high costs and potential risks.

Method

This article explores the experiences of participants and criminal legal system professionals in two court-affiliated PDPs, Philadelphia's Project Dawn Court (Dawn Court) and Baltimore's Specialized Prostitution Diversion Program (SPD).

Study Site

These PDPs were among the earliest programmes specifically targeting people arrested for criminalised sex work with a goal of addressing what they viewed as root causes to prevent future engagement. SPD and Dawn Court offered a useful comparison due to differences, respectively, in eligibility criteria (people of any gender vs. cisgender women only), programme duration (90 days vs. minimum 1 year), legal backdrop (maximum penalty for sex work of 1 year of incarceration and/or USD 500 fine vs. 5-year incarceration and/or up to USD 10,000 fine), point of intervention (pre-plea with no loss of legal rights vs. *nolo contendere* plea,[22] and outcome (null processing with easy expungement vs. dismissal of plea

[20] J French, 'Mayor Scott Joins HUD's House America Initiative to Address Homelessness in Baltimore', Baltimore City Mayor's Office of Homeless Services, 18 May 2022.

[21] M Quirouette, K Hannah-Moffat, and P Maurutto, "'A Precarious Place": Housing and clients of specialized courts', *The British Journal of Criminology*, vol. 56, issue 2, 2016, pp. 370–388, https://doi.org/10.1093/bjc/azv050.

[22] *Nolo contendere* means that the defendant does not contest the facts of the allegation; it is essentially a guilty plea.

with a possibility to request expungement a year later if arrest-free). Both were created using principles of problem-solving justice, specifically referral to services drawn from the community, mechanisms of heightened accountability for both participants and service providers, and the use of a carrot-and-stick approach to entice individual behavioural change (in this case, sex work desistance) among defendants.[23]

In line with problem-solving principles and resource limitations, PDPs rarely provide services beyond case management, but rather refer PDP participants to existing programmes. Respondents' financial precarity means that they are reliant on publicly funded programmes most of which are of variable quality. Programmes are also limited by capacity or exclusion criteria, and there is a dearth of services for women, trans people, people with families, and people pursuing medication-assisted drug treatment. Many programmes also have strict rules such as curfews, required meetings, prohibition on tobacco use or contact with people outside the institution. Most SPD and Dawn Court participants begin their trajectories in drug treatment programmes. Many of these are inpatient and, therefore, may provide housing. From there, they will often move into transitional housing, while looking for more permanent housing and 'stepping down' from intensive mental health or drug treatment. During this step down, participants live with family or friends, while continuing to seek housing. Securing housing is a programme mandate for SPD and Dawn Court. Staff often try to assist.

Data Collection

Data were collected in two waves, both approved by the University of Maryland, Baltimore Institutional Review Board. The first wave[24] was an ethnographic study conducted from 2011 to 2014 in Dawn Court and SPD. The second wave was a follow-up study conducted primarily with Dawn Court respondents from 2020 to 2021. For this article, we draw on data related to housing, broadly defined, from both waves of data collection. The article draws upon 137 interviews with 64 people.

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23 D Mueller *et al.*, *Treatment Courts and Court-Affiliated Diversion Projects for Prostitution in the United States*, Chicago Coalition for the Homeless, 2012, https://www.issuelab.org/resources/14135/14135.pdf; C S Shdaimah, 'Prostitution Diversion Programs', in F P Bernat and K Frailing (eds.), *The Encyclopedia of Women and Crime*, John Wiley & Sons, Hoboken, 2020, pp. 1–5, https://doi.org/10.1002/9781118929803.ewac0423; R V Wolf, *Principles of Problem-Solving Justice*, Bureau of Justice Administration and the Center for Court Innovation, 2007.

24 A detailed description of the first wave and some of the data collected can be found in C S Shdaimah 'Problem-solving Courts, Street Level Bureaucrats, and Clients as Policy Agents in a Prostitution Diversion Program', *Qualitative Data Repository*, 2020, https://doi.org/10.5064/F6C8VUHP.

The first wave included interviews, focus groups, observations, and document review collected by the first author and a PhD-level research assistant.[25] Respondents were recruited through direct outreach to all members of the PDP professional staff via email or during in-person meetings, as well as to any participants present during site visits. We also recruited during observations, as is common in ethnographic research, wherein researchers are embedded in study sites and engage in informal conversation with those present. Respondents were also referred via word of mouth. Respondents from this wave (*N=48*) included a total of 29 programme participants (PDC: *n*=18, SPD: *n*=11), interviewed between 1 and 7 times over the course of their participation in their respective diversion programmes and up to 1 year after completion. The sample also comprised 19 criminal legal system professionals, including judges, probation officers, public defenders, prosecutors, therapists, programme coordinators, and other paraprofessionals, each of whom was interviewed one time.

The second wave (*N*=27) included three former programme participants (one of whom was in the first wave) and 24 professionals (10 of whom were in the first wave). Respondents for the second wave were recruited through snowball sampling and outreach to respondents whose contact information was publicly available.

Interviews in both waves, lasting approximately 60–90 minutes, were recorded and transcribed verbatim. We used semi-structured interview and focus group guides, which asked study respondents to reflect on their engagement with the courts (as staff or participants), their trajectories as they moved through the programme (participants), whether participants and staff believed that the programme was helping participants to meet the stated goal of exiting prostitution, and how they felt that the programme—including the requirement to eschew sex work—impacted participants' lives in general. To protect confidentiality, we refer to all respondents (participants and staff) using the pseudonyms they provided. To enhance trustworthiness, we used prolonged engagement in the study site and with respondents, triangulation of data sources and data collection methods, analysis conducted by a multi-person research team, peer debriefing, member checking of our emerging analysis with the same or other respondents, and memoing.[26]

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25 *Ibid.*

26 D K Padgett, *Qualitative Methods in Social Work Research*, 3rd edition, SAGE Publications, Los Angeles, 2017, pp. 209–230.

Data Analysis

This article relies exclusively on interview and focus group data, which are both the largest data sources and the ones that contain the most explicit references to housing. Although we do not quote from observations, these provided the research team with important overall context for the PDPs. We analysed interviews using the NVivo (Release 1.0) qualitative data analysis software. We used a thematic analysis[27] that began with reviewing the transcripts, followed by initial coding, developing a coding scheme, reviewing preliminary themes, and finalising the analysis to connect across themes and develop an overall picture of how our respondents understood the meaning of housing. More specifically, data from the first wave were open-coded by the first author and MSW-level research assistants; data from the second wave were open-coded by all authors. In both cases, we used sensitising concepts drawn from the literature (e.g., 'housing') and emergent concepts (e.g., 'living arrangements').[28] For both waves, members of the respective research teams met to review the initial codes and develop, through consensus, an agreed-upon coding scheme that was then applied to all interviews, each of which was read by at least two members of the research team. We revised the coding scheme through amendment or creation of new codes, as needed. For this article, we conducted a focused analysis of any data initially assigned with a code related to housing, shelter, or the idea of home. Given the differences in Philadelphia's Dawn Court and Baltimore's SPD, we actively looked for programme-related differences, but we did not find any. Therefore, we report our findings from both PDPs together.

Sample

The current sample of 64 comprised 31 PDP participants and 33 PDP professional stakeholders. Participants ranged in age from 26 to 53 years. Fourteen identified their race or ethnicity as White, Caucasian, or European American; twelve as Black or African American; two as multi-racial; and one as Hispanic. Two did not report demographic information. Most participants described experiences of extreme poverty, and all of them had experienced drug addiction during or immediately prior to their participation in their respective programmes. Our programme participant sample comprised only cisgender women, the only population that the Dawn Court accepts. Although SPD does not exclude on basis of gender,

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27 L S Nowell *et al.*, 'Thematic Analysis: Striving to meet the trustworthiness criteria', *International Journal of Qualitative Methods*, vol. 16, issue 1, 2017, pp. 1–13, https://doi.org/10.1177/1609406917733847.

28 G A Bowen, 'Grounded Theory and Sensitizing Concepts', *International Journal of Qualitative Methods*, vol. 5, issue 3, 2006, pp. 12–23, https://doi.org/10.1177/160940690600500304.

close to 90 per cent of its participants were cisgender women (with the remainder nearly all identifying as transgender women).[29]

All but four professional stakeholders were women, and their work experience and tenure with the programmes varied widely. We did not systemically elicit race and ethnicity or age for the professional stakeholders.

Findings

Our findings coalesced around three main themes: (a) housing precarity among sex workers in the PDPs within an environment characterised by a dearth of housing options and interventions, (b) housing as a factor intertwined with all other personal and programmatic goals and requirements, and (c) housing as an idea(l) to which PDPs and participants aspire.

'There's Always Plenty of Beds at the Freakin' Jail': Housing precarity and crisis mode

George, a forensic assessor who worked with SPD participants, shared a truism widespread among our respondents: 'The hardest resource to find…[is] housing for women, period'. There was nearly unanimous agreement that housing is a pressing need for people involved in PDPs at virtually all stages of these programmes. One therapist, Diane, noted that 'almost nobody has a place to go back to'. Many women in treatment programmes, including PDP participants, experienced what therapist Caroline described as 'episodes of homelessness'. Like other women who have been incarcerated, PDP participants experienced what Smoyer and colleagues[30] referred to as 'ping-pong housing', which was often temporary and meant relying on friends or family. The overwhelming majority of Dawn Court participants entered the programme while incarcerated; indeed, one Dawn Court selling point is that it allowed for earlier release. Many went to inpatient drug treatment. These temporary solutions were only available for participants who met programme requirements and maintained eligibility and had insurance coverage for services.

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29 M Bailey-Kloch *et al.*, 'Finding the Right Fit: Disparities between cisgender and transgender women arrested for prostitution in Baltimore', *Journal of Forensic Social Work*, vol. 5, issue 1–3, 2015, pp. 82–97, https://doi.org/10.1080/1936928X.2015.1115797; T Lyons *et al.*, 'The Impacts of Intersecting Stigmas on Health and Housing Experiences of Queer Women Sex Workers in Vancouver, Canada', *Journal of Homosexuality*, vol. 68, issue 6, 2021, pp. 957–972, https://doi.org/10.1080/00918369.2019.1694337.

30 A B Smoyer *et al.*, 'Ping-Pong Housing: Women's post-incarceration trajectories', *Affilia*, vol. 36, issue 3, 2021, pp. 336–356, https://doi.org/10.1177/0886109920954416.

Amy, a Dawn Court participant, pointed out the stark reality that housing is often available only through transactional encounters: 'You don't stay anywhere for free, not even for a night'. Long-term solutions are harder to come by and require patience. SPD participant Brown Sugar most explicitly described sex work as a rational and ethical choice to maintain housing for herself and her family.

> *I tell anybody, 'I'd go to jail for my kids'. I'm not going to let my kids be hungry, be homeless, none of that. I'm not doing it. [I'm not] walking around with signs [asking for help] in the street, with my kids, as cold as it is. No, I'm not doing it. If that's wrong, well, then, it is what it is. … [E]verything I did … was for this house. It is what it is. And I accept the fact of what I've done. And I'm pleased with my actions.*

Brown Sugar appreciated the SPD primarily because it allowed her to avoid the consequences that flowed from the criminalisation of her choice: 'I'm pleased that this programme gave me another chance to be with my kids and not behind no bars'.

As is the case for many people living in poverty, PDP participants might experience long wait times, even if they are eligible for subsidised housing. SPD participant Jenn noted that 'I'm still in and out of housing. … I've been on the housing list [for] 8 years. I'm still on the waiting list'. Understanding this reality, SPD social worker Brigit criticised policies that would deprive women of the ability to maintain housing and meet other basic needs through sex work:

> *Homelessness is not where these folks are. … They usually have a place to stay, or multiple places to stay. … [M]any of them stay [with family], and they are also contributing [to their households]. So, I don't want to get rid of the johns until we have an alternative for the gals and guys.*

Many PDP professionals, as well as some participants, described jail as a viable housing option, in juxtaposition to the difficulty of obtaining and maintaining housing, at least in Dawn Court. As public defender Jan put it, 'there's always plenty of beds at the freakin' jail!'. Counterintuitively, jail was also considered by many professional stakeholders and some participants as a shelter, reflecting a carceral protectionism that constructed jail as a holding place to remove participants from their social contexts. Parole officer Catherine noted that 'nobody wants to go to jail [but] sometimes that can save your life.' Dawn Court therapist Dolores echoed this belief: 'They were saving their lives, literally. … They would take them back to jail because they knew they were going to die out there.' This sentiment also rang true for Dawn Court participant Lex: 'They put me in jail I can't even remember how many times, but it was just saving my life every time they put me in jail.'

Parole supervisor John shared that two participants who were sentenced to state prison 'wrote us three-page letters about how [Judge Kahan] changed their lives by doing this, and then both of them [overdosed] when they got out of state prison and died'. Though John was explaining incarceration as protecting PDP participants, this raises questions about how long incarceration can keep a person safe. If jail or prison simply defers death through incapacitation and removal from social contexts, it may not be effective in meeting participants' needs upon their release. Indeed, multiple stakeholders identified an overreliance on incarceration, regardless of its perceived utility absent other options. Dawn Court participant Vitality/Tranquility rejected incarceration as an intervention, explaining, 'I'm not this horrific, horrendous person that needs to be locked behind bars'. Jail is not a benign shelter. Motivating programme adherence through threat of incarceration compounds trauma and other harm and marginalisation. SPD participant Candy said, 'every day, I'm afraid I'm going to jail'.

Despite acknowledged harm, jail was sometimes used as a last resort for housing when noncarceral options were often unavailable. Marta, a paralegal with the public defender's office, shared that when a Dawn Court defendant relapsed in a '"help me" kind of experience', they sent her to jail, lacking suitable alternatives. Frustrated and at a loss, Marta asked, 'what do you do?'.

Conversely, noncarceral housing options were usually treatment-attached or transitional. Dawn Court participant Toni described such housing options as 'putting a Band-Aid on the situation, temporarily'. Public defender Grace elaborated, 'we [would] love everyone to have an apartment, but that's not always an option. Usually, it's transitional, but it is more stable than what they had before'. Thus, such transitional housing provided an important stopgap housing solution for participants.

These 'Band-Aid' solutions were not without their own challenges. Dawn Court Coordinator Maya noted that there are 'recovery houses in Philadelphia but finding ones in areas that are supportive for [participants], finding areas which they can financially afford, and then also [their] transition into more stable housing past the recovery housing is a huge obstacle'. The location of recovery and transitional houses is a major concern. Therapist Belle explained:

> *A lot of the recovery houses are in the communities that a lot of these people also used in. Or they're selling pills outside of the methadone clinics, so if you're trying to get yourself better and improve but you're constantly being faced with all of this, like all these barriers around you, it makes it hard to really get that motivation. … People get the fuck-its, because it's like, 'why am I bothering getting clean and doing all this stuff if I still have all these other things that are just not working out in my life?'.*

Likewise, Casey questioned the wisdom of exposing participants to seemingly incessant invitations to use drugs or sell sex, both of which would place them out of programme compliance and subject them to punishment.

> *I'm right there where I used to do my dirt. Which, I think, is totally [problematic] that they want us to go to a recovery house that's right there. 'Cause some women aren't that strong. They're right there, they're going to want to make money, you know what I mean? And I can even say for myself it was a little hard. Here I am, I see these tricks that I know, and they're like, 'yeah, you wanna?'. They want a date, and I'm broke. Like, I wouldn't—I haven't done it. But who's to say on a bad day, when I don't have any cigarettes and money, when the phone bill needs to be paid? … You know, shit like that happens.*

Casey was not alone in questioning participant success in such programmes. These fears were further heightened as most transitional housing programmes included high levels of surveillance, reporting breaches to the probation office and court. Some breaches went far beyond PDP requirements or did not even involve illegal activity. Public defender Jan described an instance in which a residential programme reported 'the worst violation' to the local drug court, resulting in the participant's ejection from the residential programme. When the judge pressed the residential programme representative, 'it turn[ed] out … [that] he went to the McDonald's across the street, and he had a cheeseburger. [The transitional programme] was a vegetarian place!'

While many recovery houses are strict with residents, many also fail to meet residents' basic needs. Dawn Court participant Ariella described her recovery house as providing 'no support [and] no stability'. Dawn Court participants are required to live in recovery houses both for services and for purposes of 'drug testing and oversight', according to public defender Kacey. Kacey also noted that, 'recovery houses are a great place to get drugs and to have conflict with other people and to not have your own room'. Many recovery houses are not the drug-free environments that residents might be seeking, and many are also characterised by poor or stressful living environments. Dawn Court participant Jerri was stuck at a bug-infested housing facility, unable to move because the facility had control of monies that she would need in order to do so:

> *I can't even go anywhere. [My current] place is gonna put your deposit in your savings bank until you move and you're in somewhere else. So, I can't move without that. … And I can't get that 'til I go out and move somewhere. … What the hell do I do? And, so, we'll probably have to go to a shelter or something. … [My child is] getting bit again by bugs when we go to bed. … She's got bites all over.*

Jeri was able to keep her child with her, but other participants experienced family separation via their involvement in the programmes. A number of respondents complained that recovery houses kept them away from their partners, including Casey, who could not find a recovery house where she could live with her husband, even though their relationship had been improving and their separation 'was a little hard for me and him'.

PDP participants need safe spaces to live, and that may require temporary housing solutions. The current options for most respondents are neither sufficient nor stable. Most solutions are temporary, and PDP participants often move out of transitional housing without adequate support, which Dawn Court participant Lex described as 'turning [participants] out to the wolves'.

'Give Everyone an Apartment': Housing as a foundation

Respondents perceived quality housing as a foundation on which to succeed in achieving both their own goals, as well as those of the programmes. Judge Kahan explained that multiple hurdles converged to render appropriate housing elusive for PDP participants: '[Women charged with prostitution are] oftentimes homeless, they're largely drug addicted, they've largely burned the bridges with so many people along the way.' These individual hurdles exacerbated systemic obstacles including limited affordable housing stock or appropriate treatment placements.

Generally, programme staff described housing as tied to participation in some form of treatment, usually related to substance abuse disorders. Adherence to treatment requirements, which also included engagement with multiple therapeutic interventions, often came at the expense of sustainable housing solutions. Although professional stakeholders and participants viewed PDPs as a source of housing assistance, many questioned their efficacy, especially for people with fewer resources outside of the court. Sexual trauma therapist Diane pointed to the difficulty of succeeding in Dawn Court without housing: 'Diversion court comes in and supposedly works very hard to break the cycle, but the cycle isn't really broken if you don't have anywhere to live.' Securing housing was just one of many pressures participants faced as they joined the programme and then exited transitional or residential programmes. Caroline observed: 'There's so many competing challenges [and participants are asked to] open up the trauma when they don't even have their basic needs met […] it just seemed … counter-therapeutic'. Several professional staff, including public defender Lily, advocated for a housing-first approach: 'Give everyone an apartment. Just start from that basic place'. Similarly, Adam, who worked in the District Attorney's office, noted that the challenges facing individuals engaged in street-based sex work were 'not a big mystery', so monitoring 'somebody's progress for a year is a pretty significant waste of resources when we would be much better off on the front end, trying to say, "hey, let's get you connected to stable housing"'.

However, beginning with a provision of housing—even temporary—contrasted with programme priorities, especially in Dawn Court, which saw trauma and substance use disorder as the main problems and first targets for intervention.[31] Existing resources and fiscal incentives promoted treatment slots over housing. Many stakeholders described that they expected participants to enter some form of transitional housing (usually a recovery or halfway house) even when other options, such as living with family, were present. As public defender Kacey described,

> *[The way the programme requirements] were set up really made it impossible for people to succeed and get off probation. … There would be this push to force people who had housing to still go to a recovery house. … So, yeah, the rigid adherence to those rules didn't help people succeed.*

Even after release from transitional housing, PDP participants navigated a challenging housing landscape. Respondents described these challenges in terms of relationships with the people with whom participants wanted to live. Whereas many participants did not have friends or family to take them in, those who did also met resistance from the programme overseeing their parole related to how these individuals—especially men—could influence participants' ongoing recovery. As public defender Alice recounted,

> *One woman was about to transition out of her recovery home and, 'well, who is she gonna live with?' 'Oh, she doesn't have anywhere to live.' 'Where's she gonna live? Where's she gonna live? Can we find her housing?' 'We don't have housing. We got nothing'. … 'She said she's going to live with an old friend.' 'Man or woman?' 'Man.' 'Oh, no.' 'Oh, God.' 'Well, are we going to let her?' 'I guess we'll let her. I mean, that's not going to be good. … It's probably an old john, you know?' 'OK'. And, then, next week: 'Ugh, we got to go pick her up [for violating programme requirements]. She tested positive [for drugs].' And I'm like, 'well, wait a second. Since we allowed her to go live there and we knew this was gonna happen, now we're going to punish her?'.*

Programme staff expressed concern over participants returning to families that might lead to reengagement in sex work or drug use. These staff usually described such concerns in terms of fears that family, friends, or neighbourhoods will either trigger bad feelings or tempt respondents: what is referred to in treatment speak as 'people, places, and things'. Other programme staff suspected that PDP participants lied about housing support. This was troubling to therapist Diane, who explained, 'people work very hard to cover this up. [Participants say,] "this is my boyfriend", "this is my children's father", "this is the home". … But the person is really their owner'. Professional stakeholders and participants often hold different understandings of interpersonal relationships, which may be

[31] Leon and Shdaimah, 2019.

both beneficial and exploitative, and may evolve over time. Constrained options, including poverty, may also lead women to see engaging in sex work for themselves and for the benefit of others as a rational and legitimate—if illegal—option.[32] For these reasons, PDP participants may feel compelled to hide relationships that might raise PDP professionals' suspicions, for example living with older men or relationships with anyone from participants' treatment programmes.[33]

The rigidity of PDP requirements, despite their inability to provide quality housing for most, denies participants permission to live where they can flourish. This leads some participants to rely on creativity and deception. One participant (intentionally unnamed)—who remains grateful for the diversion programme in which she participated—defied programme stipulations by living outside the programme's permissible geographic borders to pursue employment, while telling programme stakeholders otherwise. When incarcerated after a relapse, she was allowed to serve out her sentence in a local jail and return to live with her family rather than being sent to state prison (as she believed would be her punishment). This respondent was convinced that professional stakeholders permitted her to do this because they recognised the PDP's inability to help her and that she was better off left to her own devices with the help of her family.

> *I wasn't like everybody else. I needed space because there were some things I could do that [PDP] was holding me back from doing. The [PDP] knew they were holding me the fuck back and, instead of sending me upstate, they let me max out in jail and let me go with my family. … I had the job skills. I had the knowledge. They were holding me back from doing what I needed to do for me. And if they would just get the fuck out of my way, I could do it. And I did.*

Many respondents wanted to help PDP participants secure more dependable means to sustain housing upon exit from transitional housing, such as education and job training. Respondents often described sustainable housing and related factors as an impetus for future success, emphasising a nurturing and supportive environment. Offering insights from a participant's perspective, Toni said,

> *If you really want to get people to stay sober and stay off Avenue, give them things more than just offering them an SSI [Social Security Insurance] check and meds. 'Cause there's people out there … that want more than just an SSI check—that want a life.*

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32 C S Shdaimah and C S Leon, "'First and Foremost They're Survivors": Selective manipulation, resilience, and assertion among prostitute women', *Feminist Criminology*, vol. 10, issue 4, 2015, pp. 326–347, https://doi.org/10.1177/1557085114553832.

33 Shdaimah, Leon, and Wiechelt.

Elaborating on specific programme components that would help move participants toward what they saw as successful futures, respondents noted a need for increased educational opportunities, professional training, and legal assistance. Belle, who worked at a mandated trauma treatment programme, agreed with Dawn Court defendant Toni's assessment and offered Homeboy Industries[34] as an example of horizontal integration between treatment, employment, and avoiding recidivism, pointing out:

> *If you have someone that you know they're getting clean, they're doing all this treatment, and they're still homeless or without a job because no one will hire them because of their criminal record, what is the point of them also getting clean if they're just gonna be back to square one?*

'It's a Home': Housing as an idea(l)

Incarceration and transitional programmes are on one end of the spectrum of housing solutions, both of which include extensive surveillance. At the opposite end of that spectrum is what Judge Kahan described as a 'comfort zone'. The comfort zone is a place where people can feel safe and whole, where a house is a home. One Dawn Court focus group participant described a residential programme that seemed close to that ideal:

> *They're beautiful people. The house that I live in is gorgeous. It's beautiful. It's comfortable. I feel like I'm home. It's not like any other transitional or a recovery house; it's a home. And that's the way the nuns [who run it] make it feel for us. We all sit down at dinnertime, and sit and eat dinner together. It's just amazing. I can't say enough about my life right now. My life is moving forward.*

Participants felt valued and developed social relationships with staff and other residents, making it feel like a home. Respondents described their ideal of home in terms of location, family relationships, and a place to care for others.

Many respondents described the geographic location of home as central, viewing some regions as a means of escape and others as risking entrapment. For many participants and stakeholders in Philadelphia, a change of location meant escaping the neighbourhood where almost all Dawn Court participants were arrested, sold sex, and bought and used drugs. Although this neighbourhood was home to many, it gained infamy as a busy drug corridor. That neighbourhood was described by professional stakeholders and participants alike as a place to escape from—and in juxtaposition with—any idea of home or normalcy.

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[34] Homeboy Industries is a one-stop programme that provides holistic services, including re-entry programmes, to anyone who is involved in the criminal legal system or with gangs in Los Angeles, California. See https://homeboyindustries.org.

One SPD respondent, Pink, planned her exit: 'And when I get the Social Security, I am getting a place for me to live. It's not going to be in the city. … Where I'm going, I don't know nobody, and nobody knows me'. For many people exiting a PDP, the escape plan revolved around people at distant locations, or the possibility of anonymity. Adam shared what he considered to be a better strategy used by a non-profit agency that he worked with in the neighbourhood:

> *[People in sex work] found themselves effectively marooned [in the neighbourhood] but [if] they had a cousin in Texas [who] said, 'hey, we'll open our doors to this person'. And we just put them on a bus to Texas, and that was the solution. And that was a much more elegant way to help somebody than to say, 'we're going to tether you to this place that you already feel stuck in'.*

In contrast to the common criminal legal system practice of moving someone in order to pass the problem along ('bus therapy'),[35] Adam conveyed the desire to help clients reach their ideal homes. For others, the ideal was returning to their family homes—irrespective of geography. In addition to stability, returning to family was sometimes also part of a larger process of reconciliation. Pink described this change: 'I'm back in my family's homes again. I'm not sleeping under a bridge or walking into the grocery store, taking a couple of [items] and eating them'.

For others, living with family members was sometimes a complicated mix of assistance and risk of harm because of family dynamics. Dawn Court participant Ava explained that moving into her sister's suburban home provided her needed geographical distance from the site of her drug use and sex work, but she also described living near family as 'a trigger' due to a history of tension and unhealthy family dynamics, which were a common factor in many participants' lives.

Participants described the ideal of home as a place where they could care for others. Dawn Court participant Amy described her living situation at the time:

> *My daughter is with me every day from the time she gets home from school 'til the time she wakes up for school the next day. She sleeps at my grandmom's house with me. It's only a one-bedroom, so there's an air mattress in the living room [that] me and my daughter sleep on. She's laughing more [now] that I'm home. … My sister just had emergency brain surgery. … It was the first real tragedy since I've been home. [I] didn't know where in [the family] dynamics I stood. It turned out that I'm the one who slept at the hospital for 4 days with her, and I was strong for my parents because they were not able to be.*

[35] J Page, *The Toughest Beat: Politics, punishment, and the prison officers union in California*, Oxford University Press, Oxford, 2011.

Despite those complicated familial dynamics, Amy found her place caring for her daughter and being a pillar of support when her sister needed her. Ava also described complex familial relationships, especially with her mother, who is now her neighbour. When Ava's mother 'broke both wrists … [Ava] became her caretaker. So, that was difficult!'.

For participants with children, a stable home meant having a place to parent and provide for children. SPD participant Jen explained that her 'goal is just to be a good mother and to raise my child and bring my child home from the hospital. Bring him to a home where me and his father are'. Likewise, CeeJay, an SPD participant who was pregnant at the time of one interview, described her position: 'This will be the first baby after 8 years that I will be taking care of. That's a huge gap. … I'm petrified. … The rent will be low-income, but it will be my own home. Yeah!' Beyond a roof and four walls, caring for loved ones sometimes required other material goods along with housing and emotional support. SPD respondent Myesha explained:

> *For me and my son, so I don't need more than like a two-bedroom. … I'm going to do what I got to do to get my son happy. I'm going to get him a laptop and a flat TV and all that stuff. I've got three kids. … Of course, they want phones and laptops, my other two kids. So, I'm going to try to do what I can do for them. I want them to buy clothes, but they grow so fast! … I'm looking forward to being down there when [my daughter] starts dating because it's almost time.*

Judge Kahan saw housing as a universal need: 'Housing transcends people who have issues with drugs and alcohol and people who have issues with prostitution and mental health.'

Discussion

Respondents clearly viewed housing as much more than 'three hots and a cot', or than a bedbug-infested place to sleep at night. The physical location of the home matters, as do the people who fill the home and the look and feel of those relationships. Housing as home supersedes the mere survival conferred by four interconnected walls to describe a feeling. Home may offer ontological security necessary to build full, complex lives for PDP participants, as it does for everyone, including those entangled in criminal legal systems.[36]

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[36] A Rosenberg *et al.*, "'I Don't Know What Home Feels Like Anymore": Residential spaces and the absence of ontological security for people returning from incarceration', *Social Science & Medicine*, vol. 272, 2021, https://doi.org/10.1016/j.socscimed.2021.113734; Miller.

For people in poverty who are in recovery from long-term substance use disorders, which was the case for nearly all our respondents, housing challenges may be particularly acute. The insufficiency of safe and appropriate recovery housing in Philadelphia, for example, has been well-documented.[37] Our data corroborate these findings and show how that reality is experienced. The requirement to engage first with therapy, with little consideration of housing needs, is indicative of how programme leadership ignores the expertise and experience of certain professional stakeholders[38] and programme participants, instead opting for a one-size-fits-all approach. At worst, it forces PDP participants to separate from supportive networks, live in facilities and neighbourhoods that may impede compliance with programme stipulations, and ignore other intersecting needs and aspirations. Even PDP professionals who recognise the centrality of housing as a survival need or as crucial for stability and belonging may disregard housing as an intractable problem that they cannot solve. Regardless of whether the failure to address housing is due to a lack of resources or a lack of care, our data emphasise the importance of housing as home.

Despite asking study participants explicitly about intersectional concerns, it remains unclear what additional or different barriers to safe, sustainable housing may be faced by different populations engaged in criminalised street-based sex work. For example, it is well documented that Black and transgender sex workers face more stigma within criminal legal and housing systems,[39] experience more surveillance,[40] and bear a disproportionate share of systemic harms.[41] While arrests and incarceration in Baltimore and Philadelphia are racially disproportionate, arrests for street-based sex work and the dockets of PDPs in these locales are less so. Despite explicitly querying our respondents in this regard during the second wave of data collection, most were at a loss to explain. Nevertheless, a number concurred that this was their anecdotal experience and likely is, to some extent, a reflection of how and where sex work is policed. The literature provides some

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37 R P Fairbanks, *How it Works: Recovering citizens in post-welfare Philadelphia*, University of Chicago Press, Chicago, 2009.

38 N D Franke and C S Shdaimah, "'I Have Different Goals Than You, We Can't Be a Team": Navigating the tensions of a courtroom workgroup in a prostitution diversion program', *Ethics and Social Welfare*, vol. 16, issue 2, 2022, pp. 193–205, https://doi.org/10.1080/17496535.2022.2069544.

39 D Yarbrough, 'The Carceral Production of Transgender Poverty: How racialized gender policing deprives transgender women of housing and safety', *Punishment & Society*, vol. 25, issue 1, 2023, pp. 141–161, https://doi.org/10.1177/14624745211017818.

40 A J Ritchie, *Invisible No More: Police violence against Black women and women of color,* Beacon Press, Boston, 2017.

41 P Saunders and J Kirby, 'Move Along: Community-based research into the policing of sex work in Washington, DC', *Social Justice*, vol. 37, issue 1, 2010, pp. 107–127.

sense that this may reflect, at least in part, larger patterns of policing, police/community relations, and gentrification trends that should be explored in future studies. These efforts may be brought to fruition through policing data, such as the origin of calls for (police) services, and Geographic Information System (GIS) mapping of neighbourhood economic trends, building permits, and decriminalisation patterns, as well as other variables that may indicate shifts in sex work activities, housing trends, and policing. Future studies would also benefit from exploring intersecting vulnerabilities and protective factors among those engaged in street-based sex work as they relate to housing.

Conclusion

PDPs prioritise therapeutic interventions, targeting individual behaviours and attitudes, over meeting participants' basic human needs, often placing them in substandard housing and removing them from existing networks of support. Our data show that such prioritisation, which often conflicts with participants' expressed preferences, does not always leave them better off in the short or long term. PDPs' neglect of the quality, type, and meaning of housing reveals and reinforces a fundamental disregard for people in street-based sex trade as multifaceted, agentic human beings. To provide sustainable long-term and successful pathways for participants, programmes must recognise the importance of housing as a key stabilising factor needed for success in all other areas, as well as meeting participants' sense of home as a 'comfort zone' that must be afforded to all people. This may be accomplished through housing first models that see housing as a human right and harm reduction practice and, therefore, provide permanent shelter with tailored support to participants as a first line of service.[42] Such programmes also minimise eligibility criteria and programme requirements, such as abstinence or engagement with therapy, that may serve as barriers to housing. The inability of programme participants to surmount structural hurdles even with the resources of PDPs calls for a re-thinking of sanctioning practices. PDP participants should not be punished for non-compliance that arises from low-quality programming and a dearth of adequate housing opportunities. Perhaps most importantly, the difficulties that PDP participants and staff face in meeting housing challenges are emblematic of the problem of criminalising sex work in the first place, as it is one of the few viable financial resources available to PDP participants.

[42] L MacKinnon and M E Socias, 'Housing First: A housing model rooted in harm reduction with potential to transform health care access for highly marginalized Canadians', *Canadian Family Physician*, vol. 67, issue 7, 2021, pp. 481–483, https://doi.org/10.46747/cfp.6707481.

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When the Home Is Also the Workplace: Women migrant domestic workers' experiences with the 'live-in' policy in Singapore and Hong Kong

Shih Joo Tan

Abstract

This article examines the link between the mandatory live-in policy and the unsafe working and living conditions of women migrant domestic workers. This policy has been rationalised on the principles of the inviolability of the private home and challenges around regulating and enforcing labour protections in the home-workplace but has, in practice, increased migrant domestic workers' precarity and exploitation. Drawing on empirical research in Singapore and Hong Kong, the article demonstrates how the live-in policy operates in tandem with inadequate labour and migration regulations to produce a situation where poor working and living conditions are an enduring part of workers' employment and everyday lives. It contributes to research that has highlighted the gendered dynamics and exclusionary bordering practices that shape waged domestic labour, and considers the implications this may have for the well-being and security of women migrant domestic workers.

Keywords: live-in rule, immigration law, women migrant domestic workers, Singapore, Hong Kong, labour law

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Introduction

Accounting for 2.3 per cent of the total global employment, and 4.5 per cent of female employment worldwide,[1] domestic work is an important source of employment for women. Broadly, a domestic worker is employed to perform different household chores—from housekeeping duties such as cleaning, cooking, and washing to providing care for young and elderly people. In light of aging populations and increasing long-term care needs, the demand for domestic work is expected to grow.[2] Yet, it remains an industry characterised by high rates of informal employment, inadequate legal protections, and racialised gendered expectations that have contributed to its social and economic devaluation.

Within Asia, most countries and territories that permit the legal entry of women migrant domestic workers (for example, Singapore, Hong Kong, Malaysia, and Taiwan), have put in place state-mandated 'live-in' rules for these workers. This provision has been identified as one of the main employment conditions that contributes to, and sustains, exploitative practices such as excessively long hours of work, exclusion from overtime pay, social isolation, deprivation of privacy, and inadequate food allocation, housing, and resting space.[3] Yet, under international labour standards, where employer-provided housing is linked with or arising out of work, as in the case of live-in domestic labour, the accommodation is considered to be part of the workplace (i.e. world of work), and states have a duty to ensure workers have equitable access to safe housing and decent living conditions.[4] Challenging the mandatory live-in policy has thus been a core part of global advocacy efforts for labour rights,[5] with activists arguing that it blurs

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1 C Junghus and A Olsen, *Making Decent Work a Reality for Domestic Workers: Progress and prospects in Asia and the Pacific, ten years after the adoption of the Domestic Workers Convention, 2011 (no. 189)*, International Labour Organization (ILO), Bangkok, 2021, https://www.ilo.org/asia/publications/WCMS_800224/lang--en/index.htm.

2 In 2017, the Hong Kong Legislative Council projected that the number of migrant domestic workers would increase from 400,000 to 600,000 over the next 30 years.

3 F Durán-Valverde *et al.*, *Social Protection for Domestic Workers: Key policy trends and statistics*, Social Protection Policy Papers: Paper 16, International Labour Office, Geneva, 2016, https://www.ilo.org/secsoc/information-resources/publications-and-tools/policy-papers/WCMS_458933/lang--en/index.htm.

4 K Sheill, *Home Truths: Access to adequate housing for migrant workers in the ASEAN region*, ILO, Bangkok, 2022, https://www.ilo.org/asia/publications/WCMS_838972/lang--en/index.htm.

5 International Trade Union Confederation, International Domestic Workers Federation, ILO's Global Action Programme on Migrant Domestic Workers and their Families, *Domestic Workers Unite: A guide for building collective power to achieve rights and protections for domestic workers*, ITUC, IDWF & ILO-GAP, n.d., retrieved 20 November 2022, https://idwfed.org/domestic-workers-united-a-guide-for-building-collective-power-to-achieve-rights-and-protections-for-domestic-workers.

the boundaries between work and rest, and reinforces unequal gender hierarchies in which women migrant domestic workers are expected to be 'proto-mothers', available 24/7, even when this labour is not fairly compensated. Indeed, Article 9 of the Domestic Workers Convention (no. 189), adopted by the International Labour Organization (ILO) in 2011, states that domestic workers should be 'free to reach agreement with their employer or potential employer on whether to reside in the household.'[6]

This is not to say that in the absence of the live-in rule, women migrant domestic workers are not at risk of exploitation: exclusionary labour and immigration regulations *and* the gendered norms underpinning waged domestic labour intersect to create an environment where poor working and living conditions are an enduring part of their employment and everyday lives. It is true that employer-provided accommodation may reduce issues of housing affordability and costs of living. However, it also uniquely produces and reinforces a situation that allows employers to have significant control over workers' bodies and mobilities (i.e., where they are allowed to sleep, how much they can eat, what they can wear, when they can rest, who they can communicate with, and when they are allowed to go out). The COVID-19 pandemic and related lockdowns have further brought to fore the impacts of live-in requirements and the ambivalence of home as a safe space for women migrant domestic workers.[7] In this context, safe work is not fundamentally guaranteed or protected by law. Instead, it becomes tied to the arbitrariness of being able to secure a 'good' employer or having a good relationship with the employer.[8] Attending to the mandatory live-in policy, which transforms 'home' into a site of work and rest, thus offers a platform to understand workers' experiences of employment, and the everyday implications of border controls and labour regulations for women migrant domestic workers.

This article draws on findings from interviews with fifty-two women migrant domestic workers and ten employers in Singapore and Hong Kong, carried out over a four-month period in 2017 and 2018. Workers and employers were recruited separately (i.e., they were not personally acquainted with each other) through a combination of snowball sampling and a 'friend-of-a-friend' approach,[9] which

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6 International Labour Organization, *C189 - Domestic Worker Convention*, 2011, Article 9.

7 ILO, *Home Truths*, p. 40.

8 S J Tan, *Gendered Labour, Everyday Security and Migration: An examination of domestic work and domestic workers' experiences in Singapore and Hong Kong*, Routledge, London & New York, 2022.

9 S Scott and A Geddes, 'Ethics, Methods and Moving Standards in Research on Migrant Workers and Forced Labour', in D Siegel and R D Wildt (eds.), *Ethical Concerns in Research on Human Trafficking*, Springer International, Cham, 2016, pp. 117–135, https://doi.org/10.1007/978-3-319-21521-1_8.

uses the social ties of participants to connect with more extensive 'weak-tie' networks. Recognising that workers who were predominantly from the Philippines and Indonesia, with a smaller number from Myanmar, Thailand, and Nepal, did not speak English as a first language, preparations were made to ensure that they could access an interpreter if they wanted. However, the actual role of the interpreter was minimal as workers preferred to communicate directly with me in English as much as possible. As a trilingual researcher, speaking English, Mandarin Chinese, and Cantonese, I was also able to 'switch' across languages during the interviews with employers. The interviews were conducted in public locations of participants' choice and were audio-recorded with their permission. The names of all participants mentioned in this article are pseudonyms.

While the project is more broadly focused on women migrant domestic workers' experiences of work and workplace exploitation in Singapore and Hong Kong, it is the aspect of the mandatory live-in policy that is the focus of this article—in particular, how the live-in policy (and home as a site of work and rest) contributes to the everyday insecurity of women migrant domestic workers and increases their vulnerability to unsafe and exploitative employment conditions. By focusing on workers' and employers' experiences, the article also interrogates how existing labour laws and regulations compound the everyday insecurity of women migrant domestic workers. Specifically, it argues that these laws and regulations that govern the waged domestic labour sector are strongly associated with and grounded in gendered norms and expectations around women's domestic work. Yet, state conceptualisation of harms and labour exploitation is based upon an 'ungendered' definition of 'work' and labour standards, which risks overlooking the realities of these women's lives.

Migrant Domestic Workers in Singapore and Hong Kong

Migrant women form a significant proportion of live-in domestic workers, especially as employer-provided accommodation is part of labour migration regulations in many countries of employment. This includes Singapore and Hong Kong—two cities that have a longstanding dependency on migrant women to perform domestic and care labour in the private home. In the 1970s and 1980s, global economic restructuring and unprecedented economic growth in Singapore and Hong Kong led to a heightened participation of local women in the labour market. As domestic and care labour remained the responsibility of women,[10] households turned to the employment of women from neighbouring South and Southeast Asian countries, an option that was considered to be

[10] C Hobden, 'Working Time of Live-in Domestic Workers', International Labour Organization, Domestic Work Policy Brief 7, 2013, https://www.ilo.org/travail/info/publications/WCMS_230837/lang--en/index.htm.

relatively inexpensive and highly convenient. Other factors such as limited state investment in long-term welfare and care services, and cultural preference for care in the home[11] have further contributed to the demand for the services of live-in domestic workers.

To support the significant demand for domestic workers, both Singapore and Hong Kong have instituted a temporary labour migration scheme to facilitate the entry of South and Southeast Asian women. Prior to the COVID-19 pandemic, there had been no set limits on the number of work visas issued.[12] Within this context, the employment of women migrant domestic workers is framed as the ideal solution to domestic and care deficits, and their labour thus replaces the unpaid housekeeping and caring responsibilities that have been normatively constructed as 'natural' obligations performed by mothers and wives.[13] It also shapes the formal and informal expectations and standards of their labour.[14]

Notwithstanding the dependency on women migrant domestic workers, the labour migration regime in both cities is structured to manage their presence as a 'temporary and controlled phenomenon'.[15] Through the 'tied-visa' system, workers' right to remain and work becomes dependent on continued employment by the employer-sponsor. They are also strictly regulated through clauses that prohibit them from changing employment sectors, obtaining permanent settlement, and reuniting with their family. In addition, Singapore-based migrant domestic workers

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11 Empirical studies in Singapore and Hong Kong suggest that institutionalised care remains unpopular, and there is preference for home-based care due to association with genuine concern and personalised attention to bodily care and emotional needs (see, for example, R K H Chan and P Y K Wong, 'The Double Burden of Care in Hong Kong: Implications for care policies and arrangements', in R Ogawa *et al.* (eds.), *Gender, Care and Migration in East Asia*, Palgrave Macmillan, Singapore, 2018, pp. 25–45, https://doi.org/10.1007/978-981-10-7025-9_2). Cultural perceptions of home as a safe haven for care of the family thus makes the live-in aspect of domestic labour more appealing.

12 Official statistics indicate that as of December 2021, there were 247,400 and 339,000 migrant domestic workers employed in Singapore and Hong Kong, respectively. This means that approximately one in five Singaporean households, and one in eight Hong Kong households employs a live-in migrant domestic worker.

13 R Ogawa *et al.*, 'Introduction: Situating gender, care, and migration in East Asia', in R Ogawa *et al.* (eds.), *Gender, Care and Migration in East Asia*, Palgrave Macmillan, Singapore, 2018, pp. 1–22, https://doi.org/10.1007/978-981-10-7025-9_1.

14 P-C Lan, *Global Cinderellas: Migrant domestics and newly rich employers in Taiwan*, Duke University Press, Durham, 2006.

15 B S A Yeoh, S Huang, and T W Devasahayam, 'Diasporic Subjects in the Nation: Foreign domestic workers, the reach of law and civil society in Singapore', *Asian Studies Review*, vol. 28, issue 1, 2004, pp. 7–23, https://doi.org/10.1080/1035782042000194491.

are prohibited from becoming pregnant or marrying a Singaporean resident or national—the consequence of which is immediate deportation.[16] While in Hong Kong they are legally safeguarded against dismissal and termination of contract on the basis of pregnancy, and entitled to paid maternity leave, the extent to which workers can access these mechanisms in practice has been critiqued.[17] In spite of these differences, the labour and immigration rules that govern the entry, stay, and exit of women migrant domestic workers in both cities reflect the governments' desire to mitigate risks around the permanent settlement of 'undesirable' migrant workers.

The mandatory live-in policy is located within this regulatory context. In both cities, women migrant domestic workers are required by law to reside (and work) only at the residential address specified on their work visas. Any exceptions are assessed on a case-by-case basis. In both cities, the everyday responsibility for the care of women migrant domestic workers (i.e., providing daily sustenance and necessary medical treatment) is delegated to employers. In relation to housing, in Singapore, under the *Employment of Foreign Manpower Act* (EFMA), employers are required to provide 'adequate' accommodation for domestic workers, which include 'basic needs such as a bed or mattress, blanket, towels and bathroom amenities', 'sufficient' ventilation and 'adequate' space and privacy. Similarly, in Hong Kong, under the Employment Ordinance (EO) and Standard Employment Contract (SEC), employers are required to provide workers with 'suitable' accommodation with 'reasonable' privacy. Yet, there are no clear parameters or formal specifications as to what constitutes 'adequate', 'sufficient', 'suitable', or 'reasonable'. Instead, in both Singapore and Hong Kong, it is expected that these conditions will be negotiated between employers and workers—a stance that has been criticised as overestimating workers' capacity and power to negotiate an equitable contract, and produces a situation where their working conditions are extremely variable and dependent on subjective interpretation by individual employers.[18] The reluctance to establish firm rules around designated private spaces in employers' homes, and the persistence of the live-in policy more broadly, is also associated with public anxieties around limited land space and an already stretched social infrastructure in two very densely populated cities.[19] However, in their examination of state responses towards housing issues faced by

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16 *Ibid*.

17 N Constable, *Born Out of Place*, University of California Press, California, 2014.

18 C Chin, 'Precarious Work and Its Complicit Network: Migrant labour in Singapore, *Journal of Contemporary Asia*, vol. 49, issue 4, 2019, pp. 528–551, https://doi.org/10.1080/00472336.2019.1572209.

19 ILO, *Home Truths*.

different groups of temporary migrant workers,[20] Huang and Yeoh note that the 'rules of marginality', which shape and reinforce the formal and informal status of temporary migrant workers, also need to be understood through gendered lenses that determine the value of their labour and differential access to labour protection.[21]

In both Singapore and Hong Kong, the entrenched gendered expectations surrounding domestic and care responsibilities—for example, that mothers and elder carers must be available 24/7—inform the need for flexibility and perpetual availability of domestic workers so that they can efficaciously perform child-rearing and care work. In Hong Kong, in 2016 and 2017, a Philippine and a Sri Lankan domestic worker, respectively, filed a judicial review challenging the constitutionality of the live-in policy on the basis that it forces workers to be on-call 24/7 and places them at increased risk of exploitation.[22] Both cases were dismissed by the Hong Kong High Court, which maintained that the requirement was an 'essential feature' of Hong Kong's labour importation scheme, designed to meet local demand for *live-in* domestic services,[23] and that 'many employers have special personal care needs for which live-in domestic helpers are better placed to cater due to their availability and flexibility in providing a variety of services at different hours of the day.'[24] Similarly, in Singapore, proposals for 'live-out' domestic workers have been consistently met with resistance due to concerns around the increased costs of hiring,[25] the inconvenience of not having a domestic worker be available 24/7, and the perceived risk that live-out workers may engage in illegal activities.[26] While the COVID-19 pandemic has led to policy

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20 In 1994, in response to complaints of unsatisfactory living conditions, the Singaporean government began allocating land to build dormitories for migrant construction workers. These purpose-built dormitories were equipped with numerous amenities, including recreational facilities, in-house canteen, and cooking areas. However, the live-out option has remained unavailable for women migrant domestic workers in spite of clear evidence of their vulnerability to abuse and isolation from society.

21 S Huang and B S A Yeoh, 'The Difference Gender Makes: State policy and contract migrant workers in Singapore', *Asian and Pacific Migration Journal*, vol. 12, issue 1–2, 2003, pp. 75–97, https://doi.org/10.1177/011719680301200104.

22 Asia Times Staff, 'Employers Oppose Lifting of the New Live-in Rule for Maids', *Asia Times*, 6 November 2017.

23 J Siu, 'Hong Kong High Court Throws Out Challenge to Live-in Policy for Domestic Workers', *South China Morning Post*, 10 February 2021.

24 *Ibid.*

25 C W Aw and J Seow, 'Live-out Maids "Will Lead to More Costs, Issues"', *The Straits Times*, 19 May 2016.

26 A Raguraman and S Devaraj, 'Employers May Find It Hard to Look After Well-being, Safety of Maids If They Live Out: MOM', *The Straits Times*, 15 January 2022.

developments that permit small-scale employment of live-out workers,[27] and sparked new debates around the necessity of having *live-in* workers,[28] it is unclear to what extent this would translate into a longer-term shift.[29]

When the Private Home Is Also a Site of Work

Within public and academic discourses, it is well-established that the mandatory live-in policy is associated with increased risks of poor and exploitative employment conditions, including blurred boundaries of work and rest, overworking or long working hours, unsuitable living facilities, inadequate food provisions, a lack of privacy, and social isolation.[30] The workers I spoke with reported similar experiences. One of the main problems they talked about was the requirement to be on call 24/7. This was especially common for those who had caregiving responsibilities for young children and elderly people. Jenny, a Philippine single mother, has been working as a domestic worker for nearly a decade in Taiwan and Singapore. In her employment with a family for which she provided care for a grandmother who had dementia, Jenny described how she had to be available whenever the grandmother was awake, which meant that she had very little sleep for the two years that she was working for the household:

> *Their grandmother is very different. Like naughty, like their mind is different. They make the night time like day time and stay awake all the night, and last time I almost give up, but I said I think of my daughter. Too long the working hours and night time I cannot sleep. I tell them [the employers] also, but they tell me always, 'once she sleeps, you sleep, quickly go and sleep too.' But the grandmother really always awake, you know. (Jenny, Philippine, Taiwan/Singapore)*

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27 In 2017, the Ministry of Manpower introduced the Household Services Scheme (HSS) as an alternative to the full-time, live-in migrant domestic worker employment model. This would allow households to engage women migrant domestic workers to complete domestic labour, on a part-time, on-demand basis.

28 J Baker, 'In Focus: Will rising costs and reduced availability change Singapore's relationship with maids?', *Channel News Asia*, 27 March 2021.

29 R G Chia, 'Can Singapore's Home Cleaning Scheme Reduce Maid Abuse?', *The Rappler*, 11 September 2021.

30 M Lee, 'Borders and Migrant Domestic Workers', in L Weber and C Tazreiter (eds.), *Handbook of Migration and Global Justice*, Edward Elgar Publishing, Glos, 2021, pp. 49–64.

While the issue of stand-by hours[31] is a feature of domestic and care work more generally, living in the employer's home makes it even more challenging for workers to establish and enforce clear demarcations between working hours, rest periods, and standby time. Instead, as Jenny's experience exemplifies, the mandatory live-in policy enables employers to act on the perceived entitlement that workers can and should be available whenever deemed necessary by their employers. This has significant implications not just in relation to their labour, but also women's capacity to lead an independent life outside of their employment as domestic workers.[32] For example, Jill shared how within the home-workplace, she was required to prioritise her employers' needs and comfort, even during her rest time:

> *In my first employer I cannot use phone. At night when I am talking to my family back in the Philippines, the grandmother will knock on the door, because my room is near to her room. Then she said too noisy, cannot use. They said I can only use my phone when I am going out. (Jill, Philippine, Singapore)*

Closely related to the need to be on stand-by 24/7 is the lack of designated private space within the employer's home and limitations to the right to privacy. Many of the workers reported issues relating to the lack of autonomy and full control over their private space, such that they would either be sharing a sleeping space with other household members (n=9) or were allocated a space where employers and other household members could enter whenever they wanted (n=21). Thus, these workers had little to no privacy for the duration of their employment contract. Some workers described how they were assigned unsafe living arrangements:

> *My employer asked me to sleep on top of the washing machine and the drying machine. They just put one cardboard like this and one small foam for me to sleep. I cannot turn, cannot move, just sleep like this. And every night the employer want me to do the drying of the clothes at night time. So, it will be very, very hot when I go to sleep and I cannot go to sleep until the clothes for drying is finished. (Sally, Philippine, Hong Kong)*

The ability to have regular work hours, sufficient time for rest, and a private space of their own to unwind and relax, away from employers' monitoring, was thus a key motivation for why five of the workers had decided to live out of their employers' home. All five had agreed on this with their employers, who also paid for their

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31 Under ILO Convention 189 Article 10(3), stand-by hours are defined as 'periods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls'.

32 B Anderson, *Worker, Helper, Auntie, Maid?: Working conditions and attitudes experienced by migrant domestic workers in Thailand and Malaysia*, International Labour Organization, Bangkok, 2016, https://www.ilo.org/asia/publications/WCMS_537808/lang--en/index.htm, p. 61.

rent and transportation costs. They acknowledged that even though it was risky to live out, as it was not legally permissible, and could result in imprisonment or deportation,[33] it was a risk that they were willing to take because of the quality of life it ensured in the day-to-day:

> *For me is because… we have tried already live-in, right? Because even you finish the work at 9 p.m. and you try to sleep, but even then they will knock on your door to tell you to do something. But that is our privacy, right? Just like finish the job, we still have tomorrow to work, right? Why are you still knocking the door of the helper? And in the stay out, if you finish the work, then you can go home and take a rest. You can relax. No need to think about the employer. (Felicia, Philippine, Hong Kong)*

Felicia's reflections illustrate the circumstances and justifications for why women migrant domestic workers may decide to work or reside unlawfully (i.e., breaching work visa conditions). Women migrant domestic workers may turn to irregularity or 'voluntarily circumventing institutions'[34] to enable safety and security for themselves, when precarity is inherent to the working and living situation and fails to protect workers' interests and well-being. Participants' stories suggest that this was the case for the women who had decided to live out, as the home was not perceived to be a suitable or safe place of rest and privacy. Indeed, having the space and time to disengage from work was a luxury that most live-in workers did not have. For example, despite having a 'good' relationship with her current employer for whom she has been working for nearly five years, Polly explained that the nature of the relationship, and the highly intimate location of the workplace meant that it was still exhausting:

> *I happy but I must be careful, you know. Everything I have to be careful. You know, it's cannot relax fully, with the domestic worker, because you stay with the employer for 24 hours. Even me. I have good employer, and more relax but I still remember I am not their family. I am worker. For example, we stay with the employer, it is not convenient for the worker you know. Because we have to use the stove and equipment from the employer. So, it is not quite convenient. (Polly, Thai, Hong Kong)*

For live-in workers, the paradox of the home space being (imagined) at once as an idealised place of rest, safety, and support, and a place of restricted freedom, privacy, and exploitation, is compounded by the isolated nature of the private home and a backdrop of inadequate regulatory protections (for example, a lack

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33 Lee, p. 59.

34 O Killias, "'Illegal" Migration as Resistance: Legality, morality and coercion in Indonesian domestic worker migration to Malaysia', *Asian Journal of Social Science*, vol. 38, no. 6, 2010, pp. 897–914, https://doi.org/10.1163/156853110X530796.

of clarity around working and housing standards and the tied-visa scheme). This fosters a situation where workers are not only at increased risk of overworking and social isolation but also become almost completely dependent on their employers for basic rights and entitlements such as food, access to medical care, and communication channels with persons outside of the house. A significant minority of live-in workers (n=11) reported that their employers would limit their food and water intake, and access to medical care, either as punishment or cost-saving measure. While there is also a possibility that employers of live-out workers would withhold their access to these everyday necessities, the live-in situation (and restricted capacity to leave the home) means that the safety and well-being of these workers is highly variable and dependent on the goodwill of employers. Thus, for women migrant domestic workers in Singapore and Hong Kong, the legal requirement to work and reside in their employers' home effectively places them in situations where their everyday well-being and safety has to be negotiated through social relationships (i.e., relationships between the worker, employer, and other household members), rather than being protected by law.[35]

Within and Beyond the Home: Public laws in the home-workplace

Without a doubt, the mandatory live-in policy affords employers power over workers and facilitates poor working and living conditions for women migrant domestic workers. However, from workers' and employers' narratives, it was also evident that the harms associated with the live-in policy need to be understood against other socio-legal factors, specifically, how the location of labour in the private home and gendered norms underpinning domestic and care labour are used to justify the absence of labour laws or the effective enforcement of regulations. The discursive construction of the private/public dichotomy, and the impacts of legal non-intervention in cases of violence against women that the construct of 'privacy' enables, is well-documented within critical feminist scholarship on domestic violence.[36] Scholars have particularly emphasised how the deeply gendered construct of 'privacy' serves to delineate the domestic sphere as a space in which love and affection, rather than law or money, hold currency.[37] This has then allowed for a wide range of behaviours and relations within the domestic sphere to be exempt from legal regulation and scrutiny, effectively hiding violence against women from the public eye and shielding offenders from

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35 Tan, p. 111.

36 J M Price, 'The Apotheosis of Home and the Maintenance of Spaces of Violence', *Hypatia*, vol. 17, issue 4, 2002, pp. 39–70, https://doi.org/10.1111/j.1527-2001.2002.tb01073.x.

37 C A MacKinnon, *Towards a Feminist Theory of the State*, Harvard University Press, Cambridge, 1989.

sanctions.[38] Implicit in this view is the assumption that violence that occurs within the home is an individual problem—that of an abusive person and an innocent victim, while overlooking the extent to which gendered patterns and violence in the domestic sphere mirror and reinforce larger social patterns of inequality.[39]

In the context of waged domestic labour, we see an extension of these arguments and logics to labour law violations in the home. In particular, the principle of inviolability of the private home has often been invoked to justify the full or partial exclusion of women migrant domestic workers from protective labour legislation. Indeed, the labour migration in Singapore and Hong Kong is structured such that employment conditions or relations are negotiated via individual arrangements between employers and workers, and, if necessary, with the assistance of a third-party migration intermediary. There remains a persistent perception that conventional labour regulations cannot be enforced in the private home, as associated procedures, such as labour inspections, would be difficult to implement and compliance difficult to monitor.

For example, the Ministry of Manpower (MOM) in Singapore has consistently stated that 'it is not practical to regulate specific aspects of domestic work i.e. hours of work, work on rest day and on public holidays, as the habits of households vary.'[40] This reluctance to lay down rules can be connected to Singapore and Hong Kong's rationale of keeping state support and intervention in household matters at a minimum.[41] It also points to a decontextualised assumption that women migrant domestic workers are fully autonomous subjects who have the capacity to substantively challenge and negotiate their terms of employment. This is not to say that they are passive victims of circumstances. Indeed, there is much empirical evidence documenting how they utilise individual and collective strategies of subversion, resistance, or submission to secure their well-being and livelihood, for example, through collective efforts to unionise and making organised demands for improved working and living conditions. However, the context, nature, and location of their employment—where they are constantly in close proximity with employers who hold much power over their job and right to remain in the country—mean that for women migrant domestic workers, negotiating their terms of employment, even when it is within their right, is a challenging task.

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38 *Ibid.*

39 *Ibid.*

40 As cited in Y Teo and N Piper, 'Foreigners in Our Homes: Linking migration and family policies in Singapore', *Population, Space and Place*, vol. 15, issue 2, 2009, pp. 147–159, p. 151, https://doi.org/10.1002/psp.545.

41 Chin.

In Singapore, there is formal recognition that women migrant domestic workers 'work isolated from society' and 'face a different situation from other workers',[42] which prompted an amendment to the penal code.[43] Singapore has also introduced new safeguards aimed at improving detection of signs of abuse. One of these is a new home visit scheme, where labour officers visit the domestic workplace to check on the living and working conditions of women migrant domestic workers, and to discuss safe working conditions and channels for support.[44] This measure supplements an existing initiative where MOM randomly select first-time arrivals for in-person interviewing to find out how they are adjusting. A 2021 study by MOM indicates that the surveyed women migrant domestic workers reported high levels of satisfaction across areas such as accommodation and sufficiency of food provided.[45] However, there is no publicly available data or information to evaluate the impact of the new initiatives, including implications for employers and workers, and importantly, how it is experienced by women migrant domestic workers. While there are no similar schemes in Hong Kong, interviews with workers and employers suggest that the Thai Embassy would conduct checks on the living conditions for newly-arrived Thai migrant domestic workers. Reflecting on her friend's experience of employing a Thai domestic worker, Evonne shared that:

> *The [Thai] embassy will send people to your house to see where the domestic worker will be sleeping before they approve your request. I am not sure if this was a special case or an ongoing thing, but from what I am aware of, this is a procedure that they need to comply with, like carefully check their [the worker's] living space. (Evonne, employer, Hong Kong)*

Notwithstanding such efforts, the nature of live-in domestic labour, operating in tandem with Singapore and Hong Kong's approach of making employers responsible for workers, has enabled a situation whereby 'homes' are not just places of work and rest. They are also politicised sites where state-based practices and discourses are reproduced, and spaces where power relations between

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42 Lee, as cited in Yeoh, Huang, and Devasahayam, p. 14.

43 In 1998, Singapore's penal code was amended to increase penalties for employers found guilty of physical abuse. Convicted employers would be liable to face punishment one and a half times the amount to which they would have otherwise been liable for those specific offenses. Convicted employers and their spouses would also be permanently banned from employing another migrant domestic worker.

44 M Menon, 'Manpower Ministry Starts New House Visits Scheme to Check on Welfare of Maids', *The Straits Times*, 26 April 2021.

45 Ministry of Manpower, 'MOM Study Finds High Satisfaction Level Among Migrant Domestic Workers and Their Employers', MOM Statistics and publications, 8 June 2022, retrieved 20 November 2022, https://www.mom.gov.sg/newsroom/press-releases/2022/0608-mdw-and-mdw-employer-study-2021.

employers and workers are constantly being shaped, reshaped, and contested in response to state practices and affective relations. This plays out differently in the homes of Singapore and Hong Kong where employers shoulder different legal responsibilities for the presence and conduct of their migrant domestic worker.

In Singapore, through the security bond scheme, which subjects employers to a forfeiture of an SGD 5,000 (approx. USD 3,750) security bond if they or their domestic worker violates labour regulations and conditions, employers are rendered legally responsible for the bodies and conduct of their workers. While there is no publicly available data on the frequency of bond forfeiture in practice, it is well-evidenced that the *threat* of bond forfeiture has led to an excessive policing of workers' lives by employers, through measures such as withholding of identification documents, inspecting personal belongings, monitoring of mobile phone usage, and restricting social interactions.[46] Singapore-based employers in my research reflected similar concerns and practices. For example, Sophia explained that she holds on to her worker's passport as a 'safety precaution', even though she was aware that it is unlawful to do so:[47]

> *I would keep the passport, so that they don't run and I don't get fined [under the security bond conditions]. It is just a lot of trouble if they disappear with their passport to another country and you are stuck there, left high and dry. (Sophia, employer, Singapore)*

The overwhelming majority of Singapore-based domestic workers shared that their employers would hold on to their passports and mobile phones on the basis of 'security' and place varying restrictions on when and how long they could leave the house and even who they could talk to outside the house. The mandatory live-in policy, which physically isolates workers from others in the community, exacerbates the consequences of such restrictions:

> *[It was] very hard, very hard to contact my agency [for help] because I don't have any hand phone [mobile phone] and I can't use the phone in the house. Because my employer didn't let me use the phone at home, so I can't call my family or the [employment] agency. Then my agency said, 'But you can send letter'. Then I tell them I try to send letter to Indonesia agency,*

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46 N Varia, 'Maid to Order: Ending abuses against migrant domestic workers in Singapore', Human Rights Watch, 2005, retrieved 20 June 2022, https://www.hrw.org/report/2005/12/06/maid-order/ending-abuses-against-migrant-domestic-workers-singapore.

47 On the MOM website (last updated 2021), employers are reminded that under the *Passports Act*, 'it is an offence to keep or withhold any passport which does not belong to you'. Under labour regulations, women migrant domestic workers in Singapore *must* also 'have unrestricted access to the[ir] passport and belongings'.

> *but my employer not send it, because I give to my Sir [male employer], but my Sir keep [the letter] in the cupboard. When I clean my employer's cupboard, then I found so many of my letters never sent to Indonesia. (Penny, Indonesian, Singapore)*

None of the Hong Kong-based employers (or workers) reported similar experiences of control or restrictions over the mobilities and access to external communications of women migrant domestic workers. Instead, employers considered such practices to be ethically and legally inappropriate. Notably, there are no security bond liabilities in Hong Kong and employers do not hold the same anxieties about the financial risk of workers running away, even though they do undertake other measures of control and surveillance (for example, imposing curfews) to mitigate the risk of their workers becoming pregnant. For Hong Kong-based employers, workers' pregnancy was perceived to be a significant imposition as there are no clear, practical guidelines and policies in relation to maternity rights and obligations of pregnant migrant workers and their employers. As Tammie explained:

> *The best is if I can just give her [the worker] compensation because then it gives us both a choice. But then the law now, the employer doesn't have a choice. I cannot fire you because I have no choice. If I have the ability to give her compensation, then I would like to have the choice to give her compensation. I really don't want her to become pregnant because how can she work if she becomes pregnant? She can't do any work. (Tammie, employer, Hong Kong).*

Four of the five Hong Kong-based employers reflected similar concerns about the perceived unfairness of the current system. Thus, even though they were not subjected to security bond liabilities, as a result of the lack of clear operational guidelines and systems to support labour law frameworks (for example, related to how employers should care for a heavily pregnant domestic worker), for them, workers' pregnancies were not simply a matter of individual reproductive rights, but also associated with significant financial and legal burdens; the consequences of which are varying restrictions over workers' freedom of movement and privacy.

Conclusion

From the findings, it is clear that, while Singapore and Hong Kong have introduced labour and immigration frameworks setting out minimum standards and obligations of employers (and workers), other features of the system—in particular, those that make employers responsible for workers and the associated financial risks—place employers and workers in positions of co-dependency and potential conflict. Critically, this highlights the intersections between state regulatory practices, employer practices, and workers' security and well-being in the home, and reveals the tensions in an employment context where employers

are made responsible, and accorded a lot of power over workers who have limited options for recourse to justice or exit—an arrangement that entrenches workers' precariousness. Through the analysis of the experiences of women migrant domestic workers and employers, it is evident that 'home' is the place where employers' and workers' struggle for security and safety is articulated, negotiated, and enacted. However, the asymmetrical power dynamics in the employment relationship means that while 'home' is often imagined a site of love, safety, and support, for women migrant domestic workers in Singapore and Hong Kong, home is not necessarily a safe or loving place, and can be as much a location of control, oppression, and violence.

The findings I presented in this paper are not surprising; they contribute to the well-established literature that the mandatory live-in policy and employer-sponsored accommodation sustain poor working and living conditions for women migrant domestic workers. While it does not represent the entire problem, the mandatory live-in policy is a useful site to understand how gendered normative standards, the devaluation of waged domestic labour, and labour and migration policies converge to inform the living and working conditions of women migrant domestic workers. The persistence of the mandatory live-in policy, in spite of well-established evidence of its harms, reveals the gendered norms and expectations that underpin the employment of women migrant domestic workers, where they are seen as surrogates or 'menial' extension of mothers and wives, which therefore makes it reasonable to expect that they are perpetually on stand-by and available 24/7. In addition, ambiguous terminology and inconsistent enforcement of guidelines in relation to the home-workplace have invariably produced a regulatory environment that leaves workers in a highly insecure position where they are very much dependent on employers.

Over the past few decades, we have seen significant investments in measures to combat human trafficking and labour exploitation. Despite these efforts, the conditions, which exacerbate insecurity and render women migrant domestic workers at risk of exploitation, remain unchanged. What is evident from my study is how prevailing legal and regulatory frameworks have demarcated acceptable and unacceptable employment practices and behaviours in a manner that normalises certain mundane and ordinary practices as a regular and expected component of women's labour in the home, which, in turn, has allowed poor employment conditions to flourish and become an enduring part of workers' everyday lives.[48] Thus, the mandatory live-in policy, which produces and exacerbates particular forms of poor employment conditions, is a significant problem; however, it is

[48] J Quirk, C Robinson, and C Thibos, 'Editorial: From exceptional cases to everyday abuses: Labour exploitation in the global economy', *Anti-Trafficking Review*, issue 15, 2020, pp. 1–19, https://doi.org/10.14197/atr.201220151.

not the whole problem. My research has implications for how we think about responses and solutions. While ensuring that workers have a choice in whether they are living in or living out of the household, as covered under the Domestic Worker Convention, is certainly crucial, targeting an isolated employment practice is insufficient. What needs to be addressed are the overall conditions of employment, including the tied-visa system, and the gender norms and expectations that shape waged domestic labour. Crucially, efforts to reform and improve the living and working conditions of women migrant domestic workers need to capture women's lived realities and the messiness of life and work in the home-workplace.

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'No Income, Temporary Visa, and Too Many Triggers': Barriers in accommodating survivors of human trafficking and slavery in Australia

Kyla Raby, Dr Nerida Chazal, Lina Garcia-Daza, and Ginta Mebalds

Abstract

Access to stable housing has a significant effect on the wellbeing of survivors of human trafficking and modern slavery. Safe and sustainable accommodation provides a crucial foundation for survivors beginning their recovery; however, it is often very difficult to source for support services assisting them. This paper presents the findings of research that analysed the eligibility, suitability, availability, and accessibility of short-term accommodation and long-term housing options to better understand the barriers to accommodating survivors in Australia. It demonstrates that survivors were not eligible for many options due to their immigration status or lack of income. Within the limited options, there is a shortage of suitable accommodation due to the absence of survivor-specific services, and due to rules and requirements imposed by accommodation providers that are not supportive of survivors' unique needs. These include restrictions on survivors' freedom of movement, on the use of alcohol and other drugs, and on accommodating men, children, and extended family, as well as requirements related to engaging in activities. These barriers negatively impact survivors' recovery and may lead to homelessness whilst increasing the risk of re-trafficking or other harm. Collaboration and coordination between actors within anti-slavery and housing policy spheres is urgently required to mitigate these barriers and prevent such harms.

Keywords: human trafficking, modern slavery, survivors, housing insecurity, immigration status, income, Australia

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Introduction

For many survivors, escaping human trafficking or modern slavery means the simultaneous loss of work, income, and accommodation, however exploitative any of these were.[1] Survivors, including those who choose to seek support from government and non-government services, often find themselves homeless with no means of earning an income.[2] A serious challenge that trafficking support services experience when assisting survivors is finding them accommodation.[3] Insecure housing can have negative implications for survivors' recovery and can significantly impact their mental and physical health and wellbeing.[4] While accommodation is not a catch-all solution for meeting survivors' needs, safe and sustainable housing is a crucial foundation for their recovery. Despite its importance, securing such accommodation can be particularly stressful for survivors and for staff of services supporting them.

Over the past decade, Australia has seen an increase in the number of people formally identified as survivors of human trafficking and slavery.[5] The number of survivors being supported through the government-funded Support for Trafficked People Program (hereinafter the Support Program) has more than tripled since the Australian Red Cross (Red Cross) first began delivering the service in 2009.[6] Throughout this period, Australia has also experienced a severe housing crisis with the rate of homelessness increasing from 45 people per 10,000 population in 2006 to 50 people per 10,000 population in 2016, when the most recent data

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1 G Munro, 'The NGO Response to Human Trafficking: Challenges, opportunities, and constraints', in J Winterdyk and J Jones (eds.), *The Palgrave International Handbook of Human Trafficking*, Springer International Publishing, Cham, 2020, pp. 1489–1501.

2 *Ibid*, p. 1500.

3 A Pascual-Leone, J Kim and O-P Morrison, 'Working with Victims of Human Trafficking', *Journal of Contemporary Psychotherapy*, vol. 47, 2016, pp. 51–59, https://doi.org/10.1007/s10879-016-9338-3.

4 H Pearce, 'Safe Accommodation for Separated Children', in E Kelly and F Bokhari (eds.), *Safeguarding Children from Abroad: Refugee, asylum seeking and trafficked children in the UK*, Jessica Kingsley Publishers, London, 2011, p. 69; J Quinn *et al.*, *The Intersections of Family Homelessness and Human Trafficking*, UNANIMA International, New York, 2021, p. 2, retrieved 27 August 2022, https://unanima-international.org/wp-content/uploads/2021/05/Intersections-Publication-2.pdf.

5 Australian Red Cross, *Support For Trafficked People Program Data Snapshot: 2009 to 2019,* Melbourne, 2019, p. 5, https://www.redcross.org.au/globalassets/corporatecms-migration/migration-support/support-for-trafficked-people/support-for-trafficked-people-data-snapshot-2009-2019.pdf.

6 *Ibid.*

was made available.[7] The COVID-19 pandemic has further affected housing affordability and rental availability, rendering many long-term systemic housing problems more visible.

Within this landscape, it is particularly challenging for survivors to find stable accommodation. More than half (56%) of the 515 survivors referred to the Support Program between 2009 and 2021 had an unstable accommodation situation at the time of referral. This included survivors being supported by crisis accommodation or refuges, living or staying with family or friends, or experiencing homelessness. Survivors face the same barriers in accessing accommodation as other Australians, but they also often experience further challenges arising from their exploitation and related trauma.[8]

This article details barriers in accommodating survivors related to their eligibility for and the suitability of available short-term accommodation and long-term housing options in Australia. We argue that these barriers may render many survivors homeless which can impact their recovery whilst increasing the risk of re-trafficking or other harm. We conclude with recommendations on how to mitigate such barriers to better support and accommodate survivors in the future.

Methodology

To analyse barriers in accommodating survivors, we explored the eligibility, suitability, availability, and accessibility of different short-term accommodation and long-term housing options for survivors throughout Australia using a mixed methods approach which included 1) stakeholder mapping; 2) online surveys and semi-structured interviews with accommodation providers and survivor caseworkers; and 3) an analysis of survivor casework data.

The research team defined 'eligibility' in terms of options survivors can access due to their individual demographics, and 'suitability' in terms of the appropriateness of options for survivors' unique needs, experiences, and circumstances. The research defined 'availability' as the existence of vacancies, while 'accessibility' referred to both geographical location and disability or special needs access. As both availability and accessibility are broader issues affecting the housing sector

7 Australian Bureau of Statistics, *Census of Populating and Housing: Estimating Homelessness*, 2018, https://www.abs.gov.au/statistics/people/housing/census-population-and-housing-estimating-homelessness/2016.

8 N Nnawulezi *et al.*, 'Doing Equitable Work in Inequitable Conditions: An introduction to a special issue on transformative research methods in gender-based violence', *Journal of Family Violence*, vol. 33, 2018, pp. 507–513, https://doi.org/10.1007/s10896-018-9998-8.

in Australia, they are not covered in this paper due to its focus on barriers specific to accommodating survivors.

The research was conducted by a project team from the Red Cross and funded by the Australian Government Department of Social Services. Red Cross caseworkers facilitate access to accommodation for survivors; however, Red Cross is not an accommodation provider itself. Ethics approval was obtained from the University of South Australia. Data collection occurred between May and June 2021.

Stakeholder Mapping

Stakeholder mapping was first undertaken by Red Cross staff at a state and territory level to identify accommodation providers and classify them by location, type, and sector. These staff were engaged through a competitive interview process and chosen based on their experience working in social service provision and knowledge of their local housing sectors. Through mapping, 312 accommodation providers across Australia were identified, including formal (registered) short-term and long-term providers operating in the homelessness, domestic violence, youth, and refugee settlement sectors. Accommodation providers were counted at the organisational level, not the service level. For example, if one organisation operated numerous services, this was counted as one accommodation provider.

Survey and Semi-structured Interviews with Accommodation Providers and Caseworkers

An online survey comprising both quantitative and qualitative questions was sent to each of the identified 312 accommodation providers, and an experienced staff member was asked to complete it. The survey asked a range of questions designed to understand the eligibility and suitability of their accommodation for survivors—for example, whether providers had visa or co-payment requirements as eligibility criteria or if there were any work or study requirements of service users—and of available amenities and supports within the premises. The survey data was coded and analysed in Excel.

A separate online survey was developed to understand the barriers that Red Cross Support Program caseworkers experience when attempting to source accommodation for survivors. The questions were like those asked of accommodation providers in relation to eligibility and suitability of accommodation options and intended to understand any additional challenges caseworkers experience in supporting survivors to secure accommodation. The survey data was coded and analysed in Excel.

To supplement information from the surveys, semi-structured interviews were conducted with accommodation providers, who had recent direct experience of providing services to survivors, and with caseworkers. The interview questions were designed to gain further details about the challenges experienced by both

participant groups in accommodating survivors, and about the immediate and longer-term impacts of unsuitable or unsustainable accommodation on survivors. All interviews were transcribed, and the data was coded and thematically analysed using NVivo.

Survivor Casework Data

An analysis of Red Cross Support Program casework data, including entry status reports, monthly reports, and strength and needs assessments, was also conducted to understand the accommodation situation of survivors at their entry to, and exit from, the Support Program, the type of accommodation utilised whilst being supported, and the barriers caseworkers identified in accommodating survivors. Casework records were analysed and classified in one of four groups, depending on if the survivor had a stable or unstable accommodation situation at the time of entry or exit from the Support Program. The records of clients who were referred to, or exited from, the Support Program between 1 January 2019 and 30 June 2021 were selected for analysis.

Analysis of all data collected, and presentation of the research findings, has been shaped by a theoretical framework which explores the embodied, affective, emotional, and relational geographies of homelessness. This is inspired by the work of Daya and Wilkins who highlight the importance of housing in constituting identity, belonging, and social connections.[9] Indeed, the article demonstrates that housing is core to constituting identity and providing a survivor a stable private base from which to construct a meaningful public life.

Findings

Overview

Collectively, 107 accommodation providers and 19 caseworkers completed the survey (cumulative response rate of 38%). Responses came from providers in each state and territory of Australia, except for the Australian Capital Territory where no relevant accommodation providers were identified through the stakeholder mapping.[10] From those that responded to the survey, 76% reported operating in urban areas and 19% in rural or remote areas. Most accommodation providers

[9] S Daya and N Wilkins, 'The Body, the Shelter, and the Shebeen: An affective geography of homelessness in South Africa', *Cultural Geographies*, vol. 20, issue 3, 2013, pp. 357–378, https://doi.org/10.35648/20.500.12413/11781/ii205.

[10] The mapping exercise was heavily informed by casework experience, including accommodation services utilised to support survivors, and a limited numbers of survivors have been supported in the Australian Capital Territory.

worked in the homelessness sector (58%), followed by domestic violence (20%), youth (15%), and refugee settlement (7%) sectors. The surveys, as noted, were supplemented with 45 interviews (31 accommodation providers and 14 caseworkers). This represented approximately 10% of all eligible accommodation providers and 61% of all eligible caseworkers. As a final point of data triangulation, the surveys and interviews were informed with a review of 77 casework records.

Table 1: Sample size and response rate for each data collection technique.

Data Collection Method	Number of Participants—Invited	Number of Participants—Completed (Response Rate %)
Survey of accommodation providers	312	107 (34%)
Survey of caseworkers	23	19 (83%)
Semi-structured interviews with accommodation providers	52	31 (60%)
Semi-structured interviews with caseworkers	20	14 (70%)
Casework records	77 records identified	77 records analysed (100%)

Eligibility Barriers

The most significant and interrelated barriers that survivors face when attempting to find short-term accommodation and long-term housing are related to their immigration status and a lack of ongoing income, commonly due to an inability to gain employment or access income support.

Immigration status

More than half (54%) of survivors supported by Red Cross are on a temporary visa. In Australia, the federal government provides resources and funding for housing and homelessness services to each state and territory under the National Housing and Homelessness Agreement (NHHA). State and territory governments are then responsible for developing strategies and distributing funding to services to support and address local housing needs.[11] The waiting list for social housing in multiple states is more than ten years and there are strict guideless about who is eligible to apply.[12] A general requirement for accessing social housing in the states of New South Wales, Victoria, Tasmania, and the Australian Capital

[11] A Spinney *et al*, *Ending Homelessness in Australia: A redesigned homelessness service system*, Australian Housing and Urban Research Institute Limited, Melbourne, 2020, https://doi.org/10.18408/ahuri5119001.

[12] St Vincent De Paul Society, *Responses to Homelessness: Contribution to the 2021 audit conducted by the Audit Office of NSW*, 2021, p. 3.

Territory is for applicants to be permanent residents or Australian citizens. This requirement renders many survivors on a temporary visa, or those who have an irregular immigration status, ineligible for social housing.[13]

The government's Human Trafficking Visa Framework (HTVF)[14] is intended to support survivors who are foreign nationals to regularise their stay in Australia and access much needed support such as accommodation, but its design limits some survivors' eligibility. Survivors can access the HTVF and the Support Program for an initial period of between 45 to 90 days only if they report their situation to the Australian Federal Police (AFP). They are then only eligible for longer-term visas and support if they participate in the investigation of a human trafficking or slavery offence.[15] This immediately excludes survivors who are unwilling or unable to engage with authorities and can mean they are left unsupported and vulnerable to homelessness. For those who do access the HTVF and Support Program, as explained by a caseworker, their eligibility for these will 'cease once an AFP investigation closes', which can occur suddenly and for any number of reasons. This insecurity of access to visas and support can then negatively impact survivors' accommodation situation. In the words of a caseworker, a survivor's visa being 'subject to the investigation creates an uncertainty when they apply for community or public housing'.

Immigration status can also limit survivors' eligibility for accommodation options outside of social housing. Nearly 1 in 4 surveyed accommodation providers require survivors to be permanent residents or citizens. Often, this is due to restrictions imposed on providers related to government funding. As explained by a caseworker, 'some government-funded short-term accommodation only accept citizens and permanent residents'. However, 77% of accommodation providers do not require service users to have a particular immigration status, indicating that immigration status on its own is not a significant outright barrier to accessing such services. Indirectly, however, an individual's immigration status can create other issues which limit their access to accommodation services, namely the ability to access an ongoing income through either work or social services. As an accommodation provider explained, 'it's not people's visa status that matters,

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13 An exception to residency requirements is made for people seeking asylum or fleeing family violence, which may include some survivors. However, a general exception does not apply to survivors more broadly.

14 The Human Trafficking Visa Framework consists of two visa subclasses: Bridging F Visa (subclass 060), which is a temporary visa, and Referred Stay Visa (subclass 852), which is a permanent visa. Migration Regulations 1994 (Cth) pt. 2 div. 2.5 regs. 2.20 (14).

15 Department of Social Services, *Support for Trafficked People Program*, 2023, https://www.dss.gov.au/women/programs-services/reducing-violence/anti-people-trafficking-strategy/support-for-trafficked-people-program.

it's just the fact that temporary visa holders are often not on a stable income'.

Income

Participants noted that survivors' unstable or insufficient income was another major barrier to securing accommodation. One caseworker explained 'for a private rental, if clients do not have income or not enough income, it is very difficult for [them] to get a house'. An accommodation provider further explained that this is often the case also for privately shared houses. Even survivors who do have an ongoing income generally receive relatively low wages, prohibiting them from accessing increasingly expensive private housing. One caseworker explained that 'current rental market prices are not helpful for clients with low income' and another added that the 'rental market has high competition that our clients are unable to compete with'.

A lack of income also prevents survivors from accessing accommodation providers' services, with one provider explaining they had 'very limited placings for clients without ongoing income' and another saying, 'we can only accept up to two no-income clients at any one time.' Indeed, 44% of short-term and 58% of long-term providers indicated that their services required some sort of financial contribution from clients. Survivors with no or very low income and no access to government income support are unable to meet these requirements. Other accommodation providers noted that they could accept clients with no income if they could evidence an ability to obtain an income in the future. As explained by one such provider, 'the barrier is when there is no capacity to obtain any income and no ability to do work'. However, in many cases, survivors' ability to work is linked to their immigration or visa status.

Employment

Survivors' immigration status may not allow them to legally work in Australia, meaning they are unable to independently demonstrate the ongoing income needed to secure accommodation. As explained by an accommodation provider, survivors 'need to have work rights…so they can transition out [of our service] to their own property'. However, the temporary visas granted to, or held by, survivors can come without or with only limited work rights. Even when survivors are granted temporary visas with work rights, such as a Bridging Visa F (BVF) under the HTVF, their temporary visa status may still prevent them from gaining employment. Employers often do not understand the legalities related to hiring a person with a temporary visa and use immigration status as a reason to not hire otherwise qualified individuals. As one caseworker summarised, 'employers require job applicants to hold substantive visas'.

There are also other reasons why survivors may be unable to gain employment. As explained by a caseworker 'some of the people we're supporting aren't ready to enter the workforce....' Indeed, labour trafficking survivors have experienced exploitation *within* the workplace, including excessive overtime, restricted freedom, threats, or severe violence. Such exploitation can manifest in symptoms of depression, anxiety, and post-traumatic stress disorder.[16] In this context, then, workplaces are not neutral spaces, but locations where survivors have previously experienced mental and physical violence. Expectedly, these survivors may not be ready to re-enter the workforce. For those who are successful in securing employment, there are barriers which may prevent them from maintaining it. For example, as explained by a caseworker, 'even when women can work, the cost of childcare can be prohibitive if they are unable to access subsidies'.

Income Support

The interconnected nature of immigration status and income comes into sharper relief when considering that the types of visa survivors are granted, and the conditions attached to them, may restrict their access to government income support payments. For example, caseworkers explained that survivors who obtain a BVF usually receive access to government income support. This increases the possibility of a survivor securing accommodation as they can demonstrate having an ongoing income. However, the HTVF is designed to enable survivors who do not already hold a substantive visa to remain lawfully in Australia and to access the Support Program.[17] Therefore, a BVF is only granted to survivors if they have no other active visa when they are identified as suspected victims of human trafficking or slavery. A survivor on a different active visa is subject to the rules accompanying that visa category and ineligible for a BVF until that visa expires. For example, a survivor who is on a tourist visa, which restricts access to government income support, will likely remain on this visa until it expires before being granted a BVF. When survivors are restricted from accessing income support payments, it negatively impacts their ability to secure accommodation.

Analysis of Support Program casework data confirmed the correlation between immigration status, income (based on employment or access to income support), and housing. Of survivors who exited the Support Program with an unstable accommodation situation, 53% had no employment and only 33% were accessing income support payments.

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16 L Kiss *et al.*, 'Health of Men, Women, and Children in Post-trafficking Services in Cambodia, Thailand and Vietnam: An observational cross-sectional study', *The Lancet Global Health*, vol. 3, no. 3, 2015, pp. 154–161, https://doi.org/10.1016/s2214-109x(15)70016-1.

17 Parliament of The Commonwealth of Australia, 'Hidden In Plain Sight: An inquiry into establishing a Modern Slavery Act in Australia', Canberra, 2017, p. 152.

Suitability Barriers

The need for a holistic approach to supporting survivors in their recovery is well recognised.[18] Such an approach includes services that not only provide accommodation but also an individualised response tailored to survivors' unique needs. However, our research found that such an approach is largely absent in the Australian context. Stakeholder mapping identified only two states, New South Wales and Victoria, that have safehouses specifically for survivors of trafficking and/or forced marriage. These services were identified by caseworkers as the most suitable for survivors; however, limited capacity restricted their availability.

Of the accommodation services which are available to survivors, many have rules and requirements that are not supportive of survivors' unique needs and subsequently restrict their suitability. These include restrictions on survivors' freedom of movement, on the use of alcohol and other drugs, and on accommodating men, children, and extended family members, as well as requirements related to engaging in activities, as outlined below.

Restrictions on Freedom of Movement

From the accommodation providers surveyed, 42% mentioned restrictions on freedom of movement as one of their main rules for service users, including curfews and limitations on staying away from the premises for certain periods of time. For example, one provider explained that they have an '8 p.m. curfew' and a rule that service users are allowed only '1 night away from [the] shelter per week'. Another provider explained that their house rules contract 'includes a curfew of 9:30 p.m. [and] only staying out one night per week'. More specific rules restricting an individual's freedom of movement were also identified. For example, a provider explained that a condition of stay for their service was 'no returning to…places known to or frequented by the perpetrator of family violence'. Many providers justified such curfews and restrictions with client safety and the comfort of other residents. For example, one provider explained that, should clients choose to leave after 11 p.m., 'it is very unlikely that [they] will be permitted back in as the doors are locked, and other guests may be disturbed'. Although such rules may indeed help to ensure the safety or comfort of other service users, they may not be suitable for survivors whose trafficking experience involved similar limitations on freedom of movement. Survivors often experience complex trauma and therefore a trauma-informed approach to

[18] K M Edwards *et al.,* 'Call to Freedom: A promising approach to supporting recovery among survivors of sex trafficking', *Journal of Human Trafficking*, 2021, pp. 1–13, https://doi.org/10.1080/23322705.2021.1894410.

working with them is essential.[19] Although intended to support safety, restrictions on freedom of movement may be in contrast with trauma-informed practice and be counterproductive for survivors' recovery.

Restrictions Related to Alcohol and Other Drugs

Another suitability barrier identified were accommodation providers' restrictions related to alcohol and other drugs (AOD). Thirty-seven percent of caseworkers said that one of their primary challenges is finding accommodation that is suitable for survivors experiencing substance addiction. This was because most providers either do not allow the presence of AOD on their premises, have a requirement for those accessing their services to not be actively using AOD, or allow such service users only if they are engaging in AOD rehabilitation services. However, the use of AOD is closely linked to trauma and mental health issues, which are common impacts of exploitation. AOD is often used as a coping mechanism by survivors,[20] and forced AOD use can also be a part of an experience of trafficking or slavery,[21] leading to addictions and dependencies. Therefore, such restrictions can be limiting for survivors who are using AOD or detoxing from substance addictions.

One accommodation provider explained that 'drug and alcohol issues […] are a challenge for our service because we aren't able to provide accommodation to people who are still using drugs and alcohol or have a drug and alcohol dependency'. Commonly, providers explained that such restrictions were necessary because the presence or use of AOD may impact on other service users. For example, one explained that '[o]ur communal crisis property has shared facilities (kitchen/lounge/bathroom), which can make it difficult for people who require space and privacy from others who might be struggling with AOD dependency and trigger their recovery'. Another explained, 'we provide accommodation for people experiencing alcohol and drug issues; however, we have a strict no drug

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19 K McGuire, 'The Embodiment of Complex Trauma in Domestic Minor Sex Trafficking Victims and the Dangers of Misidentification', *Journal of Human Behaviour in the Social Environment*, vol. 29, issue 4, 2019, pp. 535–547, https://doi.org/10.1080/10911359.2018.1543630.

20 C Zimmerman *et al.*, 'The Health of Trafficked Women: A survey of women entering post trafficking services in Europe', *American Journal of Public Health*, vol. 98, no. 1, 2008, pp. 55–59, https://doi.org/10.2105/AJPH.2006.108357.

21 C Zimmerman, M Hossain, and C Watts, 'Human Trafficking and Health: A conceptual model to inform policy, intervention and research', *Social Science & Medicine*, vol. 73, no. 2, 2011, pp. 327–335, https://doi.org/10.1016/j.socscimed.2011.05.028; E Koegler *et al.*, 'Traffickers' Use of Substances to Recruit and Control Victims of Domestic Trafficking for Sexual Exploitation in the American Midwest', *Anti-Trafficking Review*, issue 18, 2022, pp. 103–120, https://doi.org/10.14197/atr.201222187.

or alcohol policy in our crisis accommodation'. Another identified this rule was in place 'due to shared living environment with children'.

Some providers explained that they accept people experiencing AOD issues 'only if they are receiving support for their addiction', or that people 'must be willing to address the issues and not be violent to workers or neighbours.' Both types of restrictions can have a limiting effect on the suitability of such accommodation for survivors who may need time before they establish feelings of safety and independence required to fully engage in AOD support. Additionally, survivors may avoid AOD support due to fear of discrimination, shame about their trafficking experience or substance abuse, and stigmatisation.[22] Some accommodation providers admitted that they lack the capacity to work with people experiencing AOD issues. For example, one explained that their service was 'not really geared up to cope with this', whilst another identified they will accept service users engaging with AOD 'only if they have support networks surrounding them as we do not have the supports'. A third provider explained 'our service accepts clients experiencing alcohol or other drug issues; however, unstaffed crisis accommodation does not necessarily meet the specific needs of this demographic'. This highlights that even if able to access such accommodation, survivors engaging with AOD may not be provided with suitable support tailored to their specific needs due to the providers' limited capacity.

The research identified a small number of accommodation providers that do accept people experiencing AOD issues and provide associated therapeutic or rehabilitation support. For example, one provider explained, 'we have AOD and MH [mental health] programs to support clients experiencing AOD issues'. However, these services were noted as having very limited capacity and long waiting periods, making it hard for survivors to access them. Another issue with such accommodation options was that they may not have the capacity to help survivors address the complexity of the issues they are experiencing. As explained by a caseworker, some of the survivors they support have received a 'dual diagnosis of substance abuse and mental health [conditions]'; however, 'many housing providers only support one diagnosis'. Assessment of service users on a needs basis was common amongst some accommodation providers where suitability for their service is 'dependant on the person's current situation [and] … what the level of their need is'. Another described using questions such as 'Are their needs greater than the support our service can provide?' to determine individuals' suitability for their service. Although such an approach may be logical and the most appropriate one to meet the needs of the greatest

[22] R J Macy and N Johns, 'Aftercare Services for International Sex Trafficking Survivors: Informing U.S. service and program development in an emerging practice area', *Trauma, Violence, Abuse*, vol. 12, issue 2, 2011, pp. 87–98, https://doi.org/10.1177/1524838010390709.

number of service users, it has a limiting effect on accommodation options for survivors with more complex needs.

Restrictions on Accommodating Men, Children, and Extended Family

For male survivors or survivors who wish to be accommodated with their partners, children, or extended family, finding suitable accommodation is ever more challenging due to restrictions imposed by accommodation providers on accepting men or family members of service users.

It is common for accommodation providers to have restrictions on accepting male residents, automatically excluding both male survivors as well as female survivors who want to be accommodated with a male partner, child, or extended family member. Sometimes these rules were explicit, with accommodation providers indicating gender-specific eligibility criteria, and other times they were more implicit, with exemptions made only to accommodate female family members of residents. For example, one provider explained that a client's family would be allowed 'occasionally in the case of extended family—grandmother or other female family member' and another reflected that 'occasionally we have had a female relative stay for support or mutual support'. Although these restrictions may be justified to maintain a safe or comfortable environment for other service users, they can be exclusionary and restrict the suitability of accommodation for some survivors.

Almost half (43%) of accommodation providers do not accept partners, children, or other family members of service users. Another 29% accept extended family but noted that this was only in particular circumstances. For example, one provider explained 'we accept any children related to [the] client and we have also taken in clients with their mother as well'. Many providers noted that these exceptions are assessed on an individual basis and the criteria varied for different providers, often due to capacity, funding, or other restrictions. For example, one provider explained, 'we will accept siblings and young parents with children as long as they are in our age range [of] 16–24 years', whereas another explained, 'we can sometimes accept a young person and their child, depending on [the] age of the child'. Caseworkers indicated that for survivors, navigating these types of individual requirements specific to providers often took a lot of time and energy and created long periods of uncertainty.

Even when accommodation providers accept dependent children in their services, only 56% indicated that their premises are always suitable for children. Another 30% indicated their premises are never suitable for children, usually due to the facility being shared with others and based on maintaining the safety of children. For example, one provider stated that 'communal living with other women and children undergoing crisis/trauma is not conducive for children',

and another explained that 'in our larger community housing complexes, it isn't always appropriate to provide accommodation to families with children due to the antisocial behaviour that occurs'. The remaining 14% of providers indicated that their premises were sometimes suitable for children, with one indicating, 'we will take parents with children as a last case scenario'. Although these reasons may be entirely appropriate, they limit the ability of survivors with dependent children to find suitable accommodation.

The challenges associated with these limitations were widely acknowledged by research participants, including accommodation providers who agreed on both the general unavailability and unsuitability of shared accommodation for children. As explained by an accommodation provider, 'when you have dependents, it's less likely that you'll be able to house-share, so you're looking at trying to find a whole house or a whole unit to yourself on possibly very low income.' A caseworker who shared this sentiment further explained that 'the only option we have that is suitable for children is to support families with income into private rental'. However, as discussed earlier, barriers related to immigration status and income severely prohibit many survivors from accessing private rentals. This demonstrates the intensifying impact when survivors experience both eligibility and suitability barriers. Restrictions on accommodating men, children, and extended family members can also be counterintuitive to principles of family reunification which are recognised as important for survivors.[23]

Requirements Related to Engaging in Activities

Other common rules that accommodation providers identified were the need for service users to engage in activities such as education or work as well as restrictions on what types of work they can undertake.

Eleven per cent of accommodation providers indicated having a requirement for their service users to undertake some type of activity. The type of activity varied greatly between providers, with some merely encouraging their clients to engage in 'work, study or volunteering to ensure that they acquire the skills for further independence', whilst others requiring a commitment from clients to engage in activities for a certain number of hours per week. An example of the latter is a provider whose service delivers a life skills programme which 'includes a minimum of 25 hours case management per week focused on identified case plan goals with a particular emphasis on education, training, and employment'. Another provider explained that 'if not studying, they [service users] must be seeking employment

[23] K Juabsamai and I Taylor, 'Family Separation, Reunification, and Intergenerational Trauma in the Aftermath of Human Trafficking in the United States', *Anti-Trafficking Review*, issue 10, 2018, pp. 123–138, https://doi.org/10.14197/atr.201218108.

or have a job to be eligible to remain in the program.' However, survivors may find this requirement overwhelming, especially during the early stages of their recovery. This can be due to challenges related to language, literacy, social skills, confidence, or the mental health impacts of trauma. For example, survivors who experience feelings of extreme sadness or hopelessness about the future may have difficulty concentrating or demonstrate aggression or anger, which may impact their ability to engage in work, education, and training activities.[24]

In contrast, 19% of accommodation providers indicated having a requirement for their service users to *not* undertake any or certain kinds of activities. For example, one provider explained that 'victim-survivors accommodated [in our service] are not permitted to attend work or school whilst in [our] service due to the risk this poses of being located by the perpetrator'. Others identified that their curfew requirements restrict their service users from undertaking work or study during evenings or early mornings. For example, one explained that their service users are 'somewhat limited by curfew so [working] night shift can be an issue depending on start/finish times', whilst another described similar restrictions on night work or study commitments as their residents 'need to return to shelter by 8 p.m.' Other accommodation providers restrict the type of work their service users could engage in. For example, one provider prohibits service users from 'jobs that are involved in areas of exposure to drugs and alcohol'. Providers justified these rules generally 'due to safety concerns', further demonstrating the primacy that principles of safety take in such decision-making. Although they may be justified, such rules further restrict the suitability of accommodation for survivors who are already engaged in, or wanting to find, work in industries such as hospitality and cleaning that often involve evening work or exposure to alcohol.

Restrictions on undertaking work on accommodation providers' premises was also identified as a barrier for some survivors, in particular those engaging in sex work. Some providers ban the use of their premises for any business activities, often justifying it with safety reasons. For example, one explained that 'work cannot take place in our premises, safety and confidentiality of our residences is paramount'. When it comes to sex work, however, accommodation providers did not specify if it was only banned on their premises or outside as well. Indeed, one provider specifically commented that 'sex workers would not be tolerated', indicating that this restriction may lead to the discrimination of individuals based on their occupation, rather than just restricting them from working on the premises. Therefore, these restrictions may exclude or be prejudiced against survivors engaging in sex work. Survivors of sexual exploitation are likely to

[24] M Clark *et al.*, *An Introduction to Human Trafficking: Vulnerability, Impact and Action*, United Nations, New York, 2008.

engage in sex work after leaving their situation of exploitation,[25] especially if sex work had previously been their main source of income. Despite sex work being legal in most Australian states and territories, many providers framed this work as 'illegal' or illicit, indicating a negative bias towards it. For example, one provider in New South Wales, where sex work is decriminalised, explained that one of their rules was 'no illegal activity on the premises' and went on to state that 'we would not condone sex work being undertaken in our homes'. Negative perceptions of sex work as a profession may also stigmatise survivors who are engaging, or who have previously engaged, in this work, and restrict the suitability of accommodation for them.

Discussion

Accommodation providers and caseworkers agreed that survivors face considerable challenges to secure short-term accommodation and long-term housing in Australia. Many of these challenges relate to eligibility, with immigration status and a lack of income (commonly associated to an inability to work or access income support) restricting where survivors can live and what help they can access. When survivors do find accommodation, they must often navigate several restrictions established by providers. Such rules limit movement, restrict substance use, require or permit engagement in certain activities such as work and study, and restrict men from accessing services as well as survivors living with partners and family members. Here, we conclude by discussing the implications of such eligibility and suitability barriers, including providing policy recommendations.

Limits on eligibility for housing based on immigration status and income are especially concerning. As illustrated above and described by a caseworker, when individuals on temporary visas are unable to work and do not have access to government income support, 'their situation can be very dire'. Caseworkers and accommodation providers noted that in addition to rendering survivors vulnerable to homelessness, such situations set the stage for survivors being re-trafficked or further exploited. As explained by an accommodation provider, such eligibility requirements 'place victim-survivors at high risk of remaining or returning to a situation where they are subjected to abuse by a person who uses violence'. Survivors may also re-enter an exploitative working situation to secure accommodation for themselves and any of their dependants. As explained by a caseworker, 'people then end up in unsuitable employment just to have enough income to live'. Additional implications are related to the disruption that insecure

[25] V V Nair and S A Varkey, 'From Victim to Criminality: Understanding sex trafficking within the walls of sex work–Victimization of victims of commercial sexual exploitation', in M Pittaro (ed.), *Global Perspectives on Reforming the Criminal Justice System,* IGI Global, Hershey, 2021, pp. 288–308.

accommodation has on survivors' recovery and negative implications for their overall wellbeing.

It is essential that policy makers consider the correlation between immigration status and accessibility of income as eligibility requirements in securing accommodation for survivors. As Australia has a federated system of governance where anti-slavery policy is a federal responsibility and housing policy is a state and territory responsibility, removing these barriers requires effective collaboration across both policy spheres and tiers of government. The barriers identified can be addressed through initiatives within both areas. An Australian parliamentary committee has recommended that the federal government allows non-policing agencies such as approved NGOs to refer potential victims to the HTVF and the Support Program and de-links longer-term access from cooperation with criminal investigations.[26] This change is urgently needed as it would enable more survivors to access visas and support, thereby also increasing their access to accommodation. Further changing the HTVF to ensure it is available to survivors on other visas, and that all visas are granted for longer durations and with permission to work and access government income support, will not only enable survivors' greater economic independence, but also broader eligibility for accommodation. For state and territory governments, allowing survivors on temporary visas to access social housing and prioritising those who experience a risk of further harm, would open long-term housing options currently unavailable to survivors. Removing the requirements for service users to be Australian citizens or residents would also enable survivors' eligibility for government-funded accommodation services.

While eligibility requirements exclude many survivors, there are also concerns regarding the suitability of available accommodation. A lack of accommodation options tailored specifically to survivors of human trafficking and slavery is a significant gap in the Australian response. From the limited options available, accommodation providers' restrictive rules and requirements can mean they are not suitable for survivors, rendering them further vulnerable to homelessness and risks of re-trafficking or other harm. As with eligibility barriers, addressing suitability barriers requires collaboration and coordination between anti-slavery and housing policy spheres at both a federal and state and territory level. The federal government provides funding for accommodation for survivors through the Support Program, but it relies on existing accommodation services being available to and suitable for survivors, which this research has demonstrated is largely not the case. Trauma-informed and person-centred accommodation services in each state and territory designed specifically for survivors are urgently required.

[26] Parliament of The Commonwealth of Australia, p. 159.

Limitations

This research has several limitations. While anyone can experience human trafficking and slavery, most survivors supported by Red Cross caseworkers are women and girls from migrant backgrounds, mostly on temporary visas.[27] Therefore, the view of the caseworkers who participated in this research has been influenced by their experiences predominantly supporting this cohort. It is also important to note that the survivors whom Red Cross caseworkers have supported are exclusively persons who have been identified as potential victims of human trafficking and slavery by the AFP, and the limiting impacts of having a policing agency as the sole referrer to the Support Program are widely acknowledged.[28] As the aim of the research was to understand the structural barriers to accommodating survivors within the Australian anti-slavery response and housing systems, rather than the direct experience of survivors in accessing accommodation, survivors themselves were not engaged in this research. Finally, the research focused on formal housing networks, rather than informal accommodation support, including couch surfing. The extent to which survivors rely on such informal accommodation support is not well known and should be further investigated.

Conclusion

Survivors of human trafficking and modern slavery often have specific needs resulting from their traumatic experiences. Accommodation plays a central role in supporting survivors' recovery, allowing them to focus on other aspects of their lives such as their physical and mental wellbeing, social connections, employment, and education. However, our research showed that survivors in Australia experience multiple barriers in finding accommodation that they are eligible for, due to interrelated issues regarding immigration status and income. Of those accommodation services that survivors are eligible for, further barriers exist related to the suitability of accommodation due to a lack of survivor-specific services as well as rules and restrictions imposed by providers which may not be suited to survivors' unique needs. As summarised by a caseworker, the ability to find safe and sustainable accommodation for survivors is severely impacted by '[having] no income, temporary visa, and [experiencing] too many triggers'. Compounded by the widespread housing crisis being experienced across Australia, which involves a general deficit in available and accessible accommodation, these barriers can render survivors homeless, negatively impact their recovery, and increase the risk of re-trafficking and other harm. Changes to Australian federal

[27] Australian Red Cross, pp. 3-4.

[28] Parliament of The Commonwealth of Australia, p. 152.

anti-slavery policy and state and territory housing policy are urgently required to remove these barriers and prevent such risks. This includes expanding survivors' access to visas, work, and government income support as well as social housing and government-funded accommodation services. An increase in specialised trauma-informed and person-centred accommodation services is also required.

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Shelter Homes - Safe haven or prison?

Haezreena Begum Abdul Hamid

Abstract

Shelters are the most common form of assistance available to trafficked persons in Malaysia and other countries. They may offer a safe and protected environment in which they can begin their recovery and access services such as legal, medical, or psychosocial aid. However, the rules imposed in the shelters and the overall victim protection mechanisms in Malaysia have been heavily criticised for violating human rights principles. This is because 'rescued' victims are forcibly detained in shelters until they are repatriated, which may take months or even a year. This article considers the conditions of victims' detention from a socio-legal perspective. Drawing upon interviews with 29 trafficked women and 12 professionals from a shelter in Kuala Lumpur, it explores the women's living conditions and access to legal support and mental and physical healthcare within the facility. The article concludes that routine detention of trafficked persons in shelters violates fundamental principles of international law and is therefore to be considered unlawful.

Keywords: shelter homes, human trafficking, detention, detention of victims in Malaysia

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Introduction

Shelter homes are the most common form of assistance available to trafficked persons in Malaysia and many other countries. In theory, shelter homes may offer a safe and protected environment in which they can begin their recovery and access a range of services such as legal, medical, and psychosocial aid in a single location. However, the rules imposed in the shelter homes, and the broader mechanisms of victim protection in Malaysia, have been heavily criticised by the United

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Nations and other entities for violating survivors' human rights.[1] This is because 'rescued' victims are detained in government or NGO-run shelters until they are repatriated, which may take several months or even a year. Shelter detention is a common practice in Malaysia and refers to a situation where victims are unable to leave the shelter home if and when they choose to. This is stipulated in section 51 of the *Anti-Trafficking and Anti-Smuggling of Migrants Act* 2007 (ATIPSOM) on the mandatory requirement for (suspected) victims of trafficking to be held in shelter homes. Trafficked persons are not allowed to refuse this provision and, in some occasions, authorities assert that the victims have agreed to the restriction of their freedom of movement.[2] In cases of migrant victims, their detention is often explained as due to their legal status in the country and therefore, they should not be allowed to leave the shelter compound.[3] It is also common practice to handcuff women and make them wear uniforms.[4] Such practices are degrading and humiliating. The dualistic approach taken by the state towards trafficked persons as 'victims to be saved' but also as individuals that require detention and restraint has only reinforced stigma, racism, xenophobia, and victim blaming.[5]

Therefore, in this article, I consider the international legal aspects of victim detention in shelter homes from a socio-legal perspective and the reality of the term 'protection', which is used to conceal the detention of trafficked women in shelters. I also focus on the suitability of the shelter home as a temporary place of refuge pending victims' repatriation to their home country. I conclude that routine detention of trafficked persons in shelters violates a number of fundamental principles of international law and is therefore to be considered unlawful and terminated.

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1 A T Gallagher and E Pearson, 'The High Cost of Freedom: A legal and policy analysis of shelter detention for victims of trafficking', *Human Rights Quarterly*, vol. 32, no. 1, 2010, pp. 73–114, https://doi.org/10.1353/hrq.0.0136; L Lyons and M Ford, 'Trafficking Versus Smuggling: Malaysia's Anti-Trafficking in Persons Act', in S Yea (ed.), *Human Trafficking in Asia: Forcing issues*, Routledge, London, 2014.

2 A T Gallagher and E Pearson, 'Detention of Trafficked Persons in Shelters: A legal and policy analysis', *SSRN Papers*, 1 November 2008, https://doi.org/10.2139/ssrn.1239745.

3 *Ibid.*

4 A Miller, 'Sexuality, Violence Against Women, and Human Rights: Women make demands and ladies get protection', *Health and Human Rights*, vol. 7, no. 2, 2004, pp. 16–47, https://doi.org/10.2307/4065347.

5 M C Desyllas, 'A Critique of the Global Trafficking Discourse and U.S. Policy', *Journal of Sociology & Social Welfare*, vol. 34, issue 4, 2007, pp. 57–79.

The Victim Protection Framework

In Malaysia, men, women, and children who have been 'rescued' from their traffickers are detained in shelter homes, forced to undergo judicial processing, and expected to adhere to all rules and regulations before they are repatriated. These shelter homes are administered by the Ministry of Women, Family, and Community Development (Ministry of Women) and all officers working in the shelter homes are gazetted as Protection Officers which gives them the authority to protect and guard the victims. At present, there are ten shelters for trafficked persons in Malaysia: seven for women, two for children, and one for men.[6] Trafficked persons are given an initial 21-day interim protection order (for suspected victims; IPO) and a subsequent 90-day protection order (for certified victims; PO) from the courts. The period of detention may be extended by the courts to facilitate the prosecution's case against the traffickers, since the prosecutors mainly rely on the cooperation and testimony of trafficked persons.[7] Figure 1 illustrates the standard processing of trafficked persons in Malaysia during the post-trafficking phase.

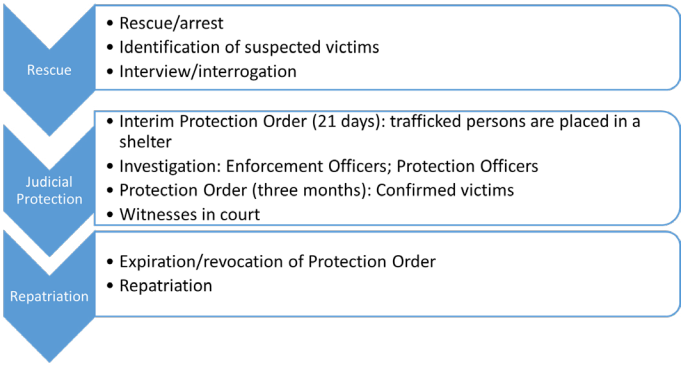

Figure 1: Flow chart of how trafficked persons are processed in Malaysia.

The Ministry as well as several NGOs are given the authority to operate shelter homes for survivors of trafficking. However, most are placed in government-run shelters for the purpose of security and to ensure they do not 'abscond' since they are potential witnesses for the prosecution. Escaping from the shelter

6 The Star, 'Eradicating Human Trafficking, Smuggling Activities', *The Star*, 2 August 2021, https://www.thestar.com.my/news/nation/2021/08/02/eradicating-human-trafficking-smuggling-activities.

7 US Department of State, *Trafficking in Persons Report 2016 - Malaysia*, Washington DC, 2016.

results in an increased term of detention equal to the period of escape.[8] The law also criminalises the act of assisting trafficked persons to escape from shelters.[9]

The act of 'rescuing' and detaining women in shelter homes is thought to be the 'ideal' mode of protecting them. For example, a newspaper report considered 'shelter homes a temporary haven for sex-trafficking victims'.[10] In reality, these 'shelter homes' resemble carceral institutions which restrict women's mobility and communication and impose punitive rules and regulations.[11] They are armed with high levels of security, including barbed wire fences and security guards, which are intended to prevent women from escaping rather than to protect them from harm.[12] This clearly demonstrates the victim protection framework is carceral and paternalistic.

Gallagher as well as Lee[13] describe these shelter homes as resembling immigration detention centres and not complying with the 'Recommended Principles and Guidelines on Human Rights and Human Trafficking' (the Guidelines).[14] Guideline 1(6) states that all anti-trafficking measures should protect trafficked persons' freedom of movement and should not infringe upon their rights. Guideline 6 posits that shelter provisions should not be made contingent on the willingness of the victims to give evidence in criminal proceedings and that victims should not be held in immigration detention centres, other detention facilities, or vagrant houses.

However, the Malaysian government denies that trafficked persons are subject to detention and instead assert that they have agreed to restrictions on their freedom of movement.[15] In addition, state authorities often claim that the detention of

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8 S.55(b) ATIPSOM.

9 S.56 ATIPSOM.

10 J Edward, 'Shelter Homes a Temporary Haven for Sex-trafficking Victims', *Malaymail*, 18 April 2016, https://www.malaymail.com/news/malaysia/2016/04/18/shelter-homes-a-temporary-haven-for-sex-trafficking-victims/1102061.

11 Gallagher and Pearson, 2010.

12 United Nations Human Rights Council, *Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, Maria Grazia Giammarinaro: Mission to Malaysia*, A/HRC/29/38/Add.1, 1 June 2015; US Department of State, *Trafficking in Persons Report 2012 - Malaysia*, Washington DC, 2012.

13 M Lee, 'Gendered Discipline and Protective Custody of Trafficking Victims in Asia', *Punishment and Society*, vol. 16, issue 2, 2014, pp. 206–222, https://doi.org/10.1177/1462474513517019.

14 Office of the High Commissioner for Human Rights, *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, United Nations, 2003, https://www.ohchr.org/sites/default/files/Documents/Publications/Traffickingen.pdf.

15 Gallagher and Pearson, 2010.

victims is necessary to secure their presence and cooperation in the criminal prosecution of their traffickers.[16] This shows how shelter homes are forced upon trafficked women and made contingent upon women testifying in court, which contravenes Guideline 6.

Shelter Rules

Shelter homes have strict regulations on issues such as admission procedures, staff conduct, termination of accommodation, handling of complaints, and administrative procedures. While these are necessary, the manner in which victims are processed is akin to how convicts are processed and detained in prison. In Malaysia, sheltered women must undergo multiple interviews or interrogations with government officials and are forced to wear uniforms, held under strict surveillance, prohibited from communicating with anyone outside the shelter, and deprived of medical, legal, translation, and psychological services.[17] As a result, women feel victimised and stressed in the shelter homes.

Non-governmental organisations, such as The Human Rights Commission of Malaysia (SUHAKAM) and Tenaganita, have criticised the human rights violations and repressive treatment which migrants and trafficked persons experience in these settings. They have raised concerns about overcrowding, poor living conditions, restriction of movement, and physical and verbal abuse towards migrants detained in shelter homes and migrant depots,[18] and have pressured the government to reform the shelter home system. SUHAKAM also urged the government to address the restricted rights of trafficked persons with the aid of civil society groups, diplomatic missions, and relevant stakeholders.[19] In response, the government has appointed a few local NGOs (Suka Society, Good Shepherd, Persatuan Salimah, and Tenaganita) to conduct various sports activities, counselling, and religious programmes in the shelters.[20] However, they are not allowed to offer legal advice to trafficked persons or change the shelter

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16 *Ibid.,* p. 74.

17 Lee.

18 See: Suhakam, http://www.suhakam.org.my; No author, 'TENAGANITA: The Truth About Migrants in Malaysia', Women's Aid Organisation, 9 May 2012, https://wao.org.my/tenaganita-the-truth-about-migrants-in-malaysia.

19 A Yunus, 'Suhakam: Significant improvement needed after Malaysia sinks to lowest ever ranking in human trafficking report', *The Star*, 22 June 2014, https://www.thestar.com.my/news/nation/2014/06/22/suhakam-anti-trafficking-report.

20 No author, 'Protecting Trafficked Survivors', SUKA Society, 2015, retrieved 7 October 2015, http://www.sukasociety.org/protecting-trafficked-survivors; US Department of State, *Trafficking in Persons Report 2021 - Malaysia*, Washington DC, 2021.

rules.[21] Even foreign embassies who are expected to coordinate with shelters on their nationals' care and welfare do not play a significant role in ensuring that women's rights are protected while in state custody.[22] Embassy officials are also required to obtain consent from the Director General of Women's Development (DG) if they wish to visit their nationals in the shelters.[23] Thus, in most cases, embassies do not interfere with the shelters' affairs or the police in order to preserve diplomatic relations.

To improve victim protection policies, the Malaysian government introduced new provisions to ATIPSOM in 2015, allowing trafficked persons to work (section 51A (1) (b)) or move freely (section 51A (1) (a)) after they have been rescued. These allow trafficked persons to work and reside outside the shelter homes. However, they are required to undergo a stringent risk assessment process, which involves security and medical examinations, and approval by the Council of Anti-Trafficking in Persons and Migrant Smuggling (MAPO).[24] Bureaucratic delays (including a lack of counsellors able to complete required mental health evaluations), risk-averse and paternalistic attitudes towards victims, as well as a lack of victim interest in available work opportunities due to low wages, have resulted in a very low number of trafficked persons being granted the right to work.[25]

Although shelter home detention is commonly justified with the need to protect victims, it is not a universal practice. In many countries, trafficked persons' right to freedom of movement is respected,[26] and the provision of support and protection is based on genuinely informed consent. This is not the case in Malaysia where shelter detention is one of the most problematic practices.

Methodology

This paper is based on interviews with 29 trafficked migrant women held in Shelter Home 5, Kuala Lumpur. I conducted the interviews between 15 April and 15 May 2016. The questions touched on their experiences of living in the shelter and the administrative process which placed them in there. I also interviewed 12 shelter

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21 US Department of State, *Trafficking in Persons Report 2017 - Malaysia*, Washington DC, 2017.

22 US Department of State, *Trafficking in Persons Report 2014 - Malaysia*, Washington DC, 2014.

23 *Ibid.*

24 S.51A(2), ATIPSOM.

25 US Department of State, 2017.

26 Shelters are open and victims are free to come and go as they please. See: Gallagher and Pearson, 2010.

professionals to gain a clearer understanding of their perception of trafficked women, policing, and protection processes. All the 29 trafficked women and the 12 professionals agreed to be interviewed voluntarily and signed a consent form.

Ethics approval was obtained from Victoria University of Wellington, New Zealand, prior to the interviews. I also obtained a written and verbal permission from the Deputy Director General (Deputy DG) of the Ministry of Women to access Shelter Home 5 and conduct interviews with trafficked women and shelter wardens. The process of attaining access was incredibly difficult given the levels of bureaucracy involved. However, permission was granted after the Deputy DG was convinced that the outcomes of the research would not be reported to the media and the research would be conducted based on the 'do no harm' principle, as contained in the 'Ten Guiding Principles of Ethical and Safe Conduct of interviews' advocated by the World Health Organization (the Guiding Principles). These Principles were also used as a guide in drafting the questions for the interviews, among them: to not make promises that cannot be fulfilled; to adequately select and prepare interpreters and co-workers; to ensure anonymity and confidentiality; to obtain informed consent; to listen to and respect each woman's assessment of her situation and risks to her safety; to not re-traumatise a woman; to be prepared for emergency intervention;[27] and to use the information obtained wisely.'[28]

The trafficked women are referred to by pseudonyms, using names of their choice. They originated from Vietnam (12), Thailand (5), Indonesia (8), Laos (1), Myanmar (1), Bangladesh (1), and Nigeria (1). Their ages ranged from 18 to 44, and all were 'rescued' by police and immigration officials from massage parlours, brothels, entertainment centres, and private dwellings throughout Peninsular Malaysia. I interviewed twelve participants in Malay, Indonesian, or English because they could converse in those languages, while the remaining 17, who spoke either Thai or Vietnamese, were interviewed with the help of interpreters. Interpreters were carefully selected to ensure that they could interpret idioms, nuances, and metaphors during the interviews. All three interpreters were women of dual nationality—Vietnamese/Malaysian or Thai/Malaysian—and each had experience interpreting Vietnamese or Thai to English and Malay and vice versa in court proceedings. I found them through government agencies and NGOs that assist trafficked persons.

In addition to the interviews, I spent 25 days in the shelter home to observe the situation and learn about women's experiences. During this time, I took notes

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[27] This means for the interviewer to be prepared to respond if a woman says she is in imminent danger.

[28] C Zimmerman and C Watts, *WHO Ethical and Safety Recommendations for Interviewing Trafficked Women*, World Health Organization, Geneva, 2003, p. 4.

of women's activities, daily routines, and interactions with one another and the shelter staff. Among the things I recorded were the daily chores: cleaning, sweeping, mopping, drying clothes, serving food, and watering plants. I also observed the way the shelter home staff communicated with the women and how they responded to women's questions. I noted the regular visits made by the police and officers from the Ministry. I also noted whatever I did in the shelter such as having casual conversations with the women or staff, and any incidents that occurred. In addition, I managed to take pictures of the shelter's exterior, including the signboard attached to the gate. I was not allowed to take any pictures of the interior for security and confidentiality purposes.

The observation gave me a general idea of how women lived and were treated in the shelter. Participant observation has been used in a variety of disciplines as a tool for collecting data about people, processes, and cultures in qualitative research.[29] Through participant observation, researchers learn about the activities of the people under study in the natural setting through observing and participating in those activities.[30] In this way, I was able to learn about women's day-to-day routines and understand the rules and regulations of the shelter as well as how women responded to them.

Findings

Safe Haven or Prison?

Shelter Home 5 began life as a spacious residential house; it is a decent-looking building in the heart of Kuala Lumpur, set back from the street and partially hidden. The house contains three bedrooms which were converted into dormitories, two bathrooms, two toilets, and a yard. There is a big lounge space where women always congregate and take short naps. There is no kitchen and only a covered dining area which is situated outside the house but within the yard.

[29] B B Kawulich, 'Participant Observation as a Data Collection Method', *Forum: Qualitative Social Research*, vol. 6, no. 2, 2005, https://doi.org/10.17169/fqs-6.2.466.

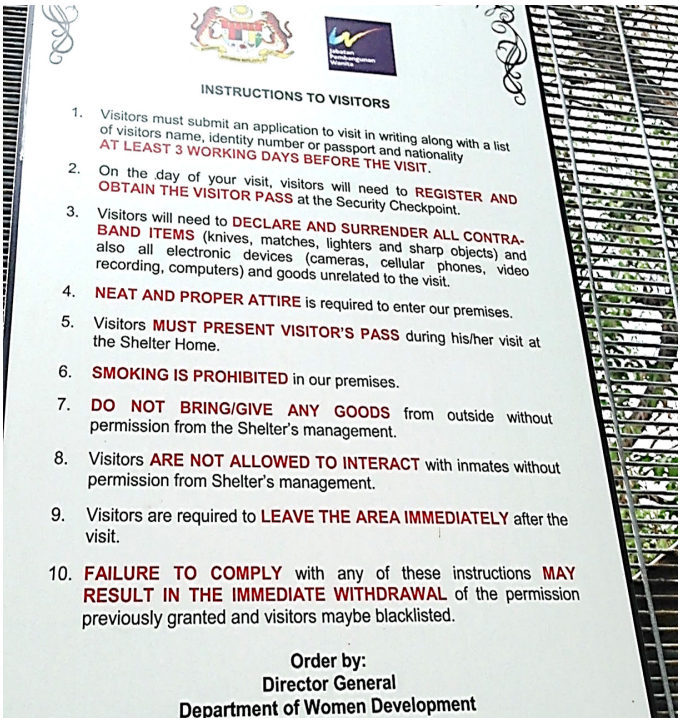
[30] *Ibid.*

Image 1: The front entrance to the shelter home.

Despite looking like a typical residential home, there are signs that Shelter Home 5 is a more carceral environment. All doors, grilles, and gates to the shelter were locked, and barbed wire was placed along the perimeters of the grounds, giving Shelter Home 5 a prison-like appearance (Images 2-3).

Image 2: The barbed wire surrounding the perimeter of the shelter.

Image 3: Entrance to the shelter. Visible is the sign with instructions to visitors.



INSTRUCTIONS TO VISITORS

1. Visitors must submit an application to visit in writing along with a list of visitors name, identity number or passport and nationality AT LEAST 3 WORKING DAYS BEFORE THE VISIT.
2. On the day of your visit, visitors will need to REGISTER AND OBTAIN THE VISITOR PASS at the Security Checkpoint.
3. Visitors will need to DECLARE AND SURRENDER ALL CONTRABAND ITEMS (knives, matches, lighters and sharp objects) and also all electronic devices (cameras, cellular phones, video recording, computers) and goods unrelated to the visit.
4. NEAT AND PROPER ATTIRE is required to enter our premises.
5. Visitors MUST PRESENT VISITOR'S PASS during his/her visit at the Shelter Home.
6. SMOKING IS PROHIBITED in our premises.
7. DO NOT BRING/GIVE ANY GOODS from outside without permission from the Shelter's management.
8. Visitors ARE NOT ALLOWED TO INTERACT with inmates without permission from Shelter's management.
9. Visitors are required to LEAVE THE AREA IMMEDIATELY after the visit.
10. FAILURE TO COMPLY with any of these instructions MAY RESULT IN THE IMMEDIATE WITHDRAWAL of the permission previously granted and visitors maybe blacklisted.

Order by:
Director General
Department of Women Development

Image 4: The signboard containing instructions to visitors.

A sign attached to the main gate provides instructions to visitors. These instructions include that visitors should declare and surrender all 'contraband' items, including cameras, phones, and other electronic devices. Visitors are reminded to wear 'neat and proper' attire, and that they must not give 'goods from outside' to the residents without prior permission. The final rule notes that 'failure to comply … may result in immediate withdrawal of the permission previously granted [to visit] and visitors maybe [*sic*] blacklisted'. As this final warning suggests, visitors could not arrive without prior authorisation. To receive authorisation, they must file an application with the DG of the Department of Women Development at least three working days prior to the planned visit. Police and protection officers, embassy officials, or pre-approved researchers were excepted. Due to the tedious process of obtaining approval, and given that most of the family members reside abroad, women do not receive any visitors other than law enforcement and protection officers. Security personnel were placed in a security house adjacent to the main gate, which could only be opened for official purposes. When asked about the reason for such measures, Shelter Home Officer Aida said it was for security purposes and to restrict the access of outsiders, particularly the traffickers.[31] However, the main reason for the tight security seemed to be to prevent women from escaping rather than to protect them from harm.[32] According to Shelter Home Officer Aznida:

> *The police will not bear any responsibilities once they [trafficked women] are given the Protection Order. Therefore, the women will be under our control and we have to ensure that they do not abscond.*

When asked to clarify about what she meant by absconding, she said:

> *Some of the women do not want to be rescued but are forcedly rescued and forced to live in shelters. For example, the enforcement officers will raid a spa and arrest everyone in there. This is the standard practice in Malaysia. The police may have a good case against their perpetrators, but because they felt that they do not need to be rescued and placed in shelter, they would prefer to go off or abscond. It's a loss for the prosecution and also would endanger the security of the shelter.*

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31 Which may not be very likely, given what the women had told me about their traffickers. See: H Hamid, 'Sex Traffickers: Friend or foe?', *Anti-Trafficking Review*, issue 18, 2022, pp. 87–102, https://doi.org/10.14197/atr.201222186.

32 United Nations Human Rights Council; US Department of State, 2012, 2014.

Shelter wardens often treated the women like small children, yelling at them and speaking to them in a demeaning and disrespectful way.[33] They did not entertain women's requests for medicine, phone calls, or updates on their cases. There were also times when women's complaints of being sick were ignored.

The shelter officers acknowledged that while some of the women were victims of trafficking, there are also some who were not 'genuine victims.'[34] In both instances, the language used to refer to the women was disparaging. Terms such as 'inmates' and 'contraband' as well as 'abscond' or 'escape' were commonly used in the facility, both in official documents (see Image 4) and by officers. Remarks by NGO officer Cecil and Shelter Home Officer Aznida suggested that occupants on the premises were seen as offenders and that the shelter home actually resembled a prison. This reflects the dual identity women occupy as victims and offenders. Furthermore, women have to undergo certain procedures upon admission into the shelter which resemble the admission into a prison. According to Yolo:

> *When I first arrived [at] the shelter, I had to take off all my clothes and there was a lady who came into the toilet. There were a few of us and they checked us one by one. We were then given uniforms to wear and a number. They call us by our numbers and not our names. I was given a black t-shirt and black pants to wear when I first entered the shelter. However, I was asked to change the colour of my t-shirt to green after 21 days.*[35]

Yolo's statement shows that women were stripped naked and searched by the shelter home security officers upon admission. Such practices instil fear in the women and establish control over and subjugate them. Hutchison who conducted interviews with women in prison in Canada found that strip-searching is a form of sexual assault and harmful.[36] Women were unable to say no to being strip-searched due to power imbalances and fear of serious consequences. The very fact that strip searches are conducted on trafficked persons demonstrates state

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33 For more on shelter staff treating survivors with disrespect and suspicion, see D Bose, ""There Are No Victims Here": Ethnography of a reintegration shelter for survivors of trafficking in Bangladesh', *Anti-Trafficking Review,* issue 10, 2018, pp. 139–154, https://doi.org/10.14197/atr.201218109.

34 Interview, 27 April 2016.

35 Interview, 25 April 2016. Women who are given an IPO (i.e., suspected victims) wore black uniforms and women who had obtained a PO (i.e., confirmed victims) wore a white uniform. Red, green, and orange-coloured t-shirts represented the colour of the dorm they belonged to.

36 J Hutchison, "'It's Sexual Assault. It's Barbaric": Strip searching in women's prisons as state-inflicted sexual assault', *Affilia*, vol. 35, issue 2, 2020, pp. 160–176, https://doi.org/10.1177/0886109919878274.

control and punishment.[37] Women were also identified by a number and not their names. As Rich notes, 'namelessness, denial, secrets, taboo subjects, erasure, false-naming, non-naming, encoding, omission, veiling, fragmentation and lying are some of the tragic and destructive forms of silencing'.[38] Similarly, in my study, the identification of women through their numbers and not their name positioned them as nameless subjects and not as individuals who deserved to be respected.

NGO Officer Cecil responded to such practices:

> *This is not a detention centre, it's not a prison, it's a protection shelter. Therefore, the colour-coded uniforms are not necessary because it makes them feel like they are in prison, those are too much of a prison style. The women have been victimised and they have been victimised by our people [Malaysians] as well. Because our people are involved, I feel that we have to give them a better place to live in.*[39]

Shelter Home Manager Ajanis acknowledged Cecil's perception:

> *Victims don't really look scared but sad when they arrive at the shelter because most of them think that this is a prison. So, we try to calm them down by telling them that this is not a prison but a shelter home.*[40]

Shelter Home Officer Aznida also felt that the shelter resembled a prison:

> *I felt stressed out when I first started working in the shelter [seven years ago] as I felt like I was working in a prison. I used to argue with my superiors as to why women were locked up and treated like criminals.*[41]

Noise, Overcrowding, Conflict, and Scarcity of Water

Past research considered how prison itself can cause mental health problems. According to Edgemon, overcrowded prisons lead to a higher average rate of depression, hostility, and mental health effects among prisoners, while those

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37 D Kilroy, 'Strip-searching: Stop the state's sexual assault of women in prison', *Journal of Prisoners on Prisons*, vol. 12, 2003, pp. 30–43, https://doi.org/10.18192/jpp.v12i0.5469.

38 A Rich, 'The Transformation of Silence into Language and Action (A Panel Discussion)', *Sinister Wisdom*, vol. 6, no. 1, 1978, pp. 17–25, p. 18.

39 Interview, 13 May 2016.

40 Interview, 29 April 2016.

41 Interview, 27 April 2016.

incarcerated in less overcrowded conditions are less depressed and hostile.[42] Overcrowded prisons also can produce worsened health outcomes, decreased psychological wellbeing, and increased risk of suicide. Such situations are also common in Malaysian shelter homes due to mandated terms of the IPOs and POs and the lack of money to build more shelters, resulting in states using existing shelters over their capacities.[43]

Shelter Home 5 was severely overcrowded. With a capacity for 70 women, it housed 202 women during my fieldwork. The overcrowding led to frequent fights amongst the women due to their confinement, causing them a lot of stress.

Emi and Putri complained about the noise and said that the shelter was always overcrowded. Putri said:

> *We have to tolerate the noisiness in the shelter because it is always overcrowded. No matter how many people leave the shelter, there will be new ones coming in.*

This overcrowding resulted from the fortnightly police raids on massage parlours, brothels, nightclubs, and karaoke bars, which forced the shelter to accommodate more and more people.

There were only two bathrooms and toilets in the shelter, and water supply was scarce in one of the toilets. When asked about the problems faced in the shelter, some of the women complained about the shortage of food and water as well as the lack of clean water in the lavatory:

> *There's not enough food for everyone here. The water supply in the lavatory is scarce and the smell is bad. It's difficult for me to urinate or pass motion as we can only use one scoop of water. There's only two toilets and both don't work properly.*[44]

> *The drinking water is yellow here. When we drink the water, we get throat problems because the water is not clean and clear.*[45]

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42 No author, 'Auburn Criminology Expert Explains How Prison Conditions Affect Mental Health', 21 September 2022, retrieved 18 January 2023, https://ocm.auburn.edu/experts/2022/09/200920-edgemon-prison-mental-health-ea.php.

43 US Department of State, 2021.

44 Interview with Putri, 20 April 2016.

45 Interview with Yolo, 25 April 2016.

Women also complained about the shortage of food and the type of food served:

> *We are given three meals a day but there is always a shortage of food. It is not enough for me.*[46]
>
> *I can't eat the food here because it is too sweet.*[47]
>
> *They serve instant noodles for breakfast. I am not used to eating this type of food in the morning.*[48]

Although international organisations and NGOs have highlighted the poor living conditions in shelter homes, there seems to be a lack of political will to address those issues. This is because having an interest in and political will to address human trafficking will expose the magnitude and severity of corruption in Malaysia which are linked to top officials.[49] As pointed out by Aegile Fernandez, the late director of Tenaganita:

> *The order of the day is profits and corruption. Malaysia protects businesses, employers, and agents [not victims]—it is easier to arrest, detain, charge and deport the migrant workers so that you protect employers and businesses.*[50]

Lack of Legal, Psychological, and Medical Services

According to Das, shelter homes are supposed to be spaces of rehabilitation for rescued trafficked women.[51] Their purpose is to restore victims' rights and provide safe accommodation, counselling, and medical assistance to help them overcome their experiences of exploitation pending their repatriation. For example, in some European countries, shelter homes 'assist victims in their physical, psychological and social recovery'. They provide, among others,

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46 Interview with Musa, 22 April 2016.

47 Interview with Mon, 9 May 2016.

48 Interview with Mei–Mei, 11 May 2016.

49 K Hodal, 'US Penalises Malaysia for Shameful Human Trafficking Record', *The Guardian*, 12 December 2014, https://www.theguardian.com/global-development/2014/jun/20/malaysia-us-human-trafficking-persons-report.

50 *Ibid.*

51 B Das, 'Rescue by "Force" or Rescue by "Choice"', *Open Democracy*, 25 November 2017, https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/rescue-by-force-or-rescue-by-choice.

appropriate and secure accommodation, psychological and material assistance, access to emergency medical treatment, translation and interpretation services, counselling and information, assistance to represent the victims' rights during criminal proceedings against offenders, and access to education for children.[52] These services are offered to victims even if they do not choose to live in shelters. However, there appears to be no systematic approach for rehabilitating trafficked persons in most developing countries in Asia.[53] As a result, different institutions follow different approaches, depending on their subjective understanding of what constitutes rehabilitation. States determine the services and rehabilitation processes, which typically do not constitute a professional and needs-based model.[54]

In Malaysia, the term used for 'rehabilitation' is *pemulihan* which means 'recovery' in Malay. Essential elements of this process should include medical assessments, healthcare services, and emotional support as well as psychological and vocational counselling.[55] The process could also include uniting trafficked persons with their families.[56]

However, some of these services are either absent or nominal in Shelter Home 5. Services such as medical care and counselling are not regularly provided, if at all. Trafficked persons are not allowed to leave the shelter except to attend court hearings or go to the hospital, to which they would be escorted by the police, immigration, or protection officers. The immigration department of Malaysia does not automatically issue work permits or freedom of movement passes unless requested by the victim and approved by the Ministry of Women Affairs and MAPO. This process is lengthy and tedious and thus not popular among victims. Even maintaining contact with friends and family is difficult; the shelter homes prohibit victims from keeping their mobile phones or telecommunication gadgets while living there. Access to other areas and activities are also limited or controlled. Victims could only enter the shelter home yard for daily chores or games and activities conducted by NGOs. The games and activities usually involved drawing and colouring, and playing ball or other types of indoor games.

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52 R Surtees, *Why Shelters? Considering residential approaches to assistance*, NEXUS Institute, Vienna, 2008

53 ILO Regional Office for Asia and the Pacific, *Rehabilitation of the Victims of Child Trafficking: A multidisciplinary approach*, International Labour Office, Bangkok, 2006.

54 *Ibid.*

55 USAID, *The Rehabilitation of Victims of Trafficking in Group Residential Facilities in Foreign Countries: A study conducted pursuant to the Trafficking Victim Protection Reauthorization Act*, USAID, 2005.

56 R Surtees and L S Johnson, *Pemulihan dan Penyatuan Semula Pemerdagangan Mangsa: Panduan pelaksana*, Regional Support Office of the Bali Process and Nexus Institute, Bangkok, 2021

There were also spiritual classes organised by religious groups such as Persatuan Salimah and Good Shepherd.

However, Putri and Emi stated that most women in the shelter did not participate in these activities as they considered them childish or boring.[57] Many, particularly those originating from Vietnam and Thailand, preferred to pass their time by making bracelets using plastic bags while the rest would usually congregate in the lounge and watch soap operas. To them, what was important in their recovery process was their freedom of movement, freedom to work and earn an income, and to be repatriated as soon as possible. Despite such feelings expressed by survivors, the government continues to implement those programmes and impose stringent rules in shelter homes.

All 29 of the women in my study felt helpless and disempowered because they were forced to live in the shelter against their will. They were quick to vent their anger, disappointment, and frustration towards the police as they could not understand why they were 'rescued' or detained in a shelter home for three months, with the possibility of having their detention extended. Many blamed the police for depriving them of the opportunity to work and support their family. For example, Liana from Kalimantan, Indonesia, said:

> *I can't even see the sky in this place [cries]. They say it is a safe house but it is not a safe house because it makes people stressed out. The police are liars [cries], yes they are liars… they told me that I could go back home after 21 days but I am still here. However, I was punished to stay here for three months.*[58]

Ngoc was relieved to have been rescued by the police but she had thought that she could immediately return to Vietnam; instead, she was forced to live in the shelter. She said:

> *I wanted the police to rescue me so that I can go back to Vietnam as I do not have a clue on how to get back to Vietnam. I hope I can go home soon as I don't want to live here [shelter].*[59]

Similarly, Mei-Mei and Hong Phan, who were not sure of the rescue process, thought that they could return to Indonesia immediately. Mei-Mei said:

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[57] Interview with Putri, 23 April 2016, and Emi, 22 April 2016.

[58] Interview, 23 April 2016.

[59] Interview, 28 April 2016.

> *The police said that they wanted to save us and send us back to Indonesia in two weeks but we are supposed to stay here [shelter] for three months before we are allowed to go home.*[60]

Women also faced difficulties in accessing legal advice and were rarely given the chance to speak during court hearings. The lack of clarity and legal options while they are in custody have resulted in women becoming emotionally unstable and stressed. It appears that law enforcers were more concerned about the success of the prosecution's case than the women's well-being. The women said they were aggressively questioned during trials and expected to provide clear and concise evidence which could implicate their traffickers. This is very difficult for foreign women who are not provided with interpreters and thus forced to articulate their thoughts with the little Malay or English they know. Seven women complained that they did not receive enough information about the legal process. For example, Hoar An said:

> *The police, court, and shelter officers did not tell me why I have been detained here [shelter] for so long. I don't know what is happening to my case and my date of repatriation.*[61]

The lack of information about their court case, reasons for detention, and date of repatriation caused the women a lot of stress, confusion, and anxiety. Almost all participants stated that they felt bored in the shelter, because they were confined and did not have much to do except for some household chores:

> *I feel very bored because I have nothing to do here. I am so stressed out. I cry most times because I keep thinking of my family.*[62]

> *I feel very sad living here. Nobody is able to tell me when I will be released from the shelter and would be able to go home.*[63]

> *I feel very sad and I feel like dying. I have been in here [shelter] for two months. I don't how long will they keep me here.*[64]

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60 Interview, 11 May 2016.

61 Interview, 26 April 2016.

62 Interview with Efa, 25 April 2016.

63 Interview with Fon, 30 April 2016.

64 Interview with Musa, 22 April 2016.

These testimonies reflect the women's sadness and uncertainty of living in the shelter. They are consistent with studies that found that imposed conditions of adversity, including prolonged detention, poor living conditions in shelters, restricted access to services, and lack of opportunities to work or study, often result in women becoming emotionally unstable, stressed, and even suicidal.[65]

Women also complained of feeling socially isolated, vulnerable, and traumatised. They were having flashbacks and found it difficult to trust people as a result of their trafficking and post-trafficking experiences. Verbal arguments and physical fights occurred frequently in the shelter home. As Hong Phan explained:

> *The women are always quarrelling and fighting here. I try to stay away from these fights. There is a hierarchy in this shelter and I need to respect the 'Tai Ka Che' (Big Sister) but I did not want to worship anyone. I just wanted to be on my own and did not want to be friends with anyone else. So, they ganged up against me and tried to find fault with me. They tried to beat me up. There were 11 of them against three of us. I feel scared now. I am scared of being bullied.*[66]

This shows that there is an informal hierarchy (kingpin) system which operates to subjugate and control women in the shelter. Shelter Home Warden Lalli confirmed that there were gangs in the shelter:

> *There are two gangs in the shelter and they easily get into a fight if they are triggered by any issues such as spending a longer time in the bathroom or [being] given extra food. Although some of the women were arrested together, they may give opposing statements in court and so they dislike each other. Therefore, I have to try and prevent the gangs from fighting with each other.*[67]

Besides the frequent fights, some women complained of psychological and emotional problems such as having nightmares[68] and seeing 'spirits'. Ngoc said:

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65 D Silove, P Ventevogel, and S Rees, 'The Contemporary Refugee Crisis: An overview of mental health challenges', *World Psychiatry*, vol. 16, no. 2, 2017, pp. 130–139, https://doi.org/10.1002/wps.20438; No author, 'Hyderabad: Rescued Uzbek woman ends life in shelter home', *Deccan Chronicle*, 15 April 2018, https://www.deccanchronicle.com/nation/crime/150418/hyderabad-rescued-uzbek-woman-ends-life-in-shelter-home.html.

66 Interview, 29 April 2016.

67 Interview, 13 May 2016.

68 S Huda, 'Sex Trafficking in South Asia', *International Journal Gynecology & Obstetrics*, vol. 94, no. 3, 2006, pp. 374–381, https://doi.org/10.1016/j.ijgo.2006.04.027.

> *Some of my friends here saw a spirit in the third room. It happened to me a few times, the room right at the end of this house. It's a female spirit who tells us the date we will be repatriated and the date we will be going home. The spirit appears in the middle of the night. There's a rumour amongst us that there was a female who committed suicide here by hanging herself and this spirit comes to hug us.*[69]

In some cases, women displayed severe signs of post-traumatic stress disorder. According to Shelter Home Manager Ajanis:

> *There have been few cases of post-traumatic disorder. For example, there was one lady who had OCD [Obsessive Compulsive Disorder] and used to take lots of showers. The reason why she behaved that way was because she was abused while she was working and told that she was not clean and everything she did wasn't clean. Another example is an abuse case where the woman was tortured by the employer. She was continuously threatened by her employer and told that she will be caught by the police if she left her workplace. She has never seen her passport and became frightened when she saw her passport and said that it wasn't hers.*[70]

There were also complaints about the lack of medical care in the shelter. Only nine of the women said that they had met a doctor either in the shelter or while they were in police custody. Sixteen complained of not having enough medication, except for Panadol when they were sick and, in some cases, they were not given medicine at all. For example, Hong who had been in the shelter home for two months said:

> *I was examined by a doctor who came to the shelter and was told that I have a heart problem. However, I have not been given any medicine till now.*[71]

Nisa said:

> *I had an operation [the] day before yesterday. The doctor cleaned my vagina and anus because I had too much discharge. I am still in pain and there is white liquid coming out of my vagina. The doctor gave me some medicine but it has finished. I told the shelter officers but they only gave me Panadol which did not help to alleviate the pain.*[72]

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69 Interview, 28 April 2016.

70 Interview, 29 April 2016.

71 Interview, 28 April 2016.

72 Interview, 3 May 2016.

Shelter staff confirmed that there were no medical professionals in the shelter. Because women are not medically screened before entering the shelter, the shelter home officers were unaware of any existing illnesses the women had.[73] However, the shelter staff perform physical checkups to try to identify any marks or suspected illnesses. According to Shelter Home Officer Aida:

> *We need to check if they [the women] have any illnesses, burn marks, or bruises when they first enter into the shelter. We use gloves when we perform checkups as we are afraid of contracting any disease. We identified two HIV cases from the checkups. In one particular case, the woman was very thin and had a lot of ringworms near the breast line. We asked her if she had AIDS to which she kept quiet. We informed the police and she was taken to a hospital for further checkups. She died less than a week after that at the Sungai Buloh Hospital.*[74]

Women will only be sent for hospital visits if they are suspected to have severe and advanced stage of illnesses. Despite the admission on the lack of facilities and poor living conditions by the shelter home manager, there have not been any attempts to improve the situation because of the limited budget allocated to the shelter homes.[75] According to Shelter Home Officer Aida:

> *The person who is in charge of us at JPW [Department for Women's Development] is not aware of the work we do. It is so difficult for them to give us the budget, even during critical times. We are only given MYR 20,000 (USD 4,489) per month which is not even enough to cover the women's expenses. One track pants costs MYR 30 (USD 6.70) and if there are 200 women here, I will need to provide 400 pants for them because we give them two sets each. There are also other items that we need to purchase such as toothbrushes, shampoo, soap, towels, and detergents, and it all has to be covered with the budget of MYR 20,000 per month.*[76]

The experiences of the women living in the shelter provided some insight into how it operates and the adverse impacts on the women. Despite the intention of protecting women from their traffickers, prolonged detention often resulted in women becoming emotionally unstable and stressed. However, little attention is given to such consequences because the government is focused on combating

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73 Interview with Shelter Home Manager Ajanis, 29 April 2016.

74 Interview, 10 May 2016.

75 Interview with Shelter Home Officer Aznida, 27 April 2016.

76 Interview, 10 May 2016.

human trafficking by prosecuting offenders.[77] Given this, the government does not want to be seen as assisting women who are involved in sex work or allocating extra funds to improve their living conditions while in detention.[78] As a result, migrant women are forced to live in sub-standard shelter homes and are exposed to physical and psychological harms.

Discussion and Conclusion

Women in Shelter Home 5 described living in prison-like conditions despite being classified as victims of trafficking. They struggled with a lack of autonomy and control over their own lives, including their ability to keep in contact with friends and family members. They were also frustrated by the lack of services, especially legal and psychological aid, finding little value in arts and crafts or spirituality programmes. These findings echo those of other research that shows clear parallels between the experience of trafficked persons in semi-carceral institutions like shelter homes and those in immigration detention and prisons.[79] Trafficked women are categorised as victims and they deserve to be treated with humanity and respect. However, Malaysia's current shelter home system is extremely unsatisfactory, due to the limited space and poor living conditions, repressive rules, limited activities on offer, and the lack of medical care and counselling for victims.

Unlike prisoners or detainees, however, the experiences of trafficked persons in shelter homes are underreported and understudied. Their stated aim of offering 'protection' to victims places shelter homes above scrutiny.[80] While some countries follow the so-called 3Rs—rescue, rehabilitation, and reintegration—the Malaysian practice more adequately resembles rescue, *detention*, and repatriation. In detention, women's rights to freedom of speech, freedom of movement and residence, and free choice of employment are severely curtailed. These practices are at odds with ATIPSOM, which prohibits women's incarceration pending their repatriation, and Guideline 6 of the Recommended Principles and Guidelines on Human Rights and Human Trafficking, which recommends that states provide adequate legal, medical, and psychological care for trafficked persons.

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77 S-Y Cho, 'Evaluating Policies Against Human Trafficking Worldwide: An overview and review of the 3P index', *Journal of Human Trafficking*, vol. 1, issue 1, 2015, pp. 86–99, https://doi.org/10.1080/23322705.2015.1014660.

78 Interview with Shelter Home Manager Ajanis, 29 April 2016.

79 M Bosworth, 'Immigration Detention in Britain', in M Lee (ed.), *Human Trafficking*, Willan, London, 2007; Gallagher and Pearson, 2010; Lee.

80 Lee.

These prison-like conditions and the absence of services put the women in shelter homes at risk of exploitation and poor health. Without legal representation, they are unaware of their rights, do not understand their legal status, and presume that they are serving a prison sentence. Additionally, the overcrowding, stress, and poor food and hygiene all contribute to physical and mental health issues that can manifest as depression, self-harm, or suicidal ideation. Shelter homes, far from protecting survivors of trafficking, sustain the causes of women's social subordination, including those that stem from sexism, xenophobia, and racism.[81] Such shelter homes exist as part of the broader 'raid-and-rescue' approach to trafficking that penalises migrant women, particularly those engaged in sex work. These carceral anti-trafficking measures stigmatise, marginalise, and criminalise sex workers and migrants on the grounds of security.[82] They also assume that the best solution to human trafficking is law enforcement and prosecution. However, as human rights advocates note, this prosecution-first approach ignores systemic weaknesses in the justice process that fail to hold perpetrators accountable. These advocates add that while law enforcement efforts are important for reducing human trafficking, it is even more important to address the root causes, such as corruption and exploitative labour migration schemes.[83]

The 2021 and 2022 TIP Reports, which placed Malaysia in Tier 3,[84] recommended that the government improve its victim protection practices, including the consistent use of interpreters, allowing survivors to communicate with people outside shelters, increasing their freedom of movement from shelters, and eliminating the use of chaperones. More broadly, the government must ensure that all state-led anti-trafficking measures adhere fully to the Recommended Principles and Guidelines on Human Rights and Human Trafficking. With respect to protection, this means that trafficked persons should not be held in detention centres or vagrant houses and should be afforded services that are not contingent on their willingness to give evidence in criminal proceedings. Adequate support

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81 G Samari, A Nagle, and K Coleman-Minahan, 'Measuring Structural Xenophobia: US state immigration policy climates over ten years', *SSM Population Health*, vol. 16, 2021, https://doi.org/10.1016/j.ssmph.2021.100938.

82 C Murray, 'Ending the Stigma Surrounding Human Trafficking: Series introduction', See the Triumph, 3 June 2014, retrieved 26 March 2022, http://www.seethetriumph.org/blog/ending-the-stigma-surrounding-human-trafficking-series-introduction.

83 R R Ganesan, 'No Excuse for Poor Standing in Human Trafficking Report, Hamzah Told', *Free Malaysia Today*, 6 August 2022, https://www.freemalaysiatoday.com/category/nation/2022/08/06/no-excuse-for-poor-standing-in-human-trafficking-report-hamzah-told.

84 Tier 3 is the lowest ranking, which indicates countries whose governments do not fully comply with the minimum standards to combat human trafficking and are not making significant efforts to do so.

to trafficked persons, and their treatment with respect and dignity, must be an indelible part of a good anti-trafficking response.

At present, the policies of rescue, detention and repatriation that are brought forth to 'save victims' violate women's rights to freedom of speech, freedom of movement and residence, and free choice of employment. Therefore, immediate improvements are needed to address such human rights violations. This includes the abolishment of forced detention in shelter homes and making shelters more comfortable for those trafficked persons who require refuge. This would include bigger living space; access to light, sun, clean air, and hygiene; and respectful, professional staff. Trafficked persons should also be provided with assistance and information about their cases, legal advice regarding the court processes and compensation, as well as counselling. These improvements can create an environment more conducive to trafficked person's health and well-being, thereby assisting them in their recovery. Through providing sufficient victim support and prioritising the needs of victims, the state would be able to reduce crime and promote its crime prevention strategy in combatting human trafficking.

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Closing the Door on Survivors: How anti-trafficking programmes in the US limit access to housing

Karen Romero, Tatiana Torres, Alana Jones, and Ciara Dacosta-Reyes

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Abstract

Housing is often an immediate need for survivors as they exit a trafficking situation. Due to financial hardship, housing availability, and other barriers, many survivors rely on time-limited housing options, some which are offered by anti-trafficking service providers. As such, the anti-trafficking field has begun to adopt trauma-informed approaches to housing to meet the needs of survivors. In this paper, we present an analysis of policies and procedures from 73 US anti-trafficking housing programmes on the implementation of a trauma-informed model. We argue that mandatory requirements limit the implementation of trauma-informed service delivery. Additionally, practices such as the voluntary services model can be leveraged to increase trauma-informed approaches in housing services. Lessons learnt from this process can inform the revision of punitive policies and procedures in favour of those that are voluntary and trauma-informed.

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Introduction

Housing instability puts people at risk of trafficking when they are desperate to avoid homelessness and also acts as a barrier for survivors seeking safety.[1] The United States (US) State Department's 2021 *Trafficking in Persons* report highlighted insufficient access to emergency shelter, transitional housing, and long-term

[1] Freedom Network USA, *2020 Member Report*, Washington, DC, 2020, https://freedomnetworkusa.org/app/uploads/2020/04/Freedom-Network-Member-Report-April-2020.pdf, pp. 9–10.

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housing options as a priority issue for trafficking survivors.[2] Survivors often rely on time-limited shelters, transitional housing, and rental assistance programmes administered by anti-trafficking service providers or mainstream housing and homeless services. Historically, anti-trafficking housing programmes have employed practices that restrict survivors' autonomy by establishing prerequisites such as sobriety or limiting cell phone use. In addition, some programmes require participation in case management or therapy, and opening of savings accounts, as conditions of using their services. While the programmes may see these policies as necessary for the safety of staff and other residents, such practices can recreate the power and control dynamics that survivors experienced during their trafficking situations. As the anti-trafficking field in the US critically examines its responsibility to resist re-traumatisation, it is clear that there is a discrepancy between the professed commitment to adopting a trauma-informed approach and the actual practice and implementation within anti-trafficking housing programmes.

Freedom Network USA (FNUSA), a human rights-based coalition of anti-trafficking advocates in the United States providing training and technical assistance, conducted policy and procedure reviews for housing programmes funded by the US Department of Justice's Office for Victims of Crime (OVC). FNUSA found that while most programmes self-identified as trauma-informed, the majority included policies that contradicted key principles of the trauma-informed model.

In this short paper, we explore the housing landscape in the US, including barriers survivors face when accessing housing. This is followed by a discussion of the trauma-informed model in housing programmes and the results of FNUSA's review. Finally, we conclude with recommendations for how programmes can shift to better support survivors in accessing and retaining their housing while implementing a trauma-informed approach.

The Housing Landscape in the US

Housing options for human trafficking survivors in the US exist broadly within three categories: emergency, transitional, and permanent or long-term housing. The availability and usage of these options may be limited by survivors' location, local resources, and programme funding.

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2 US Department of State, *2021 Trafficking in Persons Report*, US DOS, Washington, DC, 2021.

Emergency shelters address the immediate housing needs for those experiencing homelessness or crisis situations.[3] Shelters are generally available for up to three months and may have shared bedrooms or common spaces, providing little privacy. Residents of emergency shelters are often subject to certain requirements, such as immediately searching for longer-term housing options and obtaining identity documentation, which may serve as barriers for foreign nationals.[4] Additionally, emergency shelters are typically structured in accordance with gender identity, with shelter options for heterosexual, cis, female sex trafficking survivors being most common. This creates an access gap for others, including labour trafficking survivors as well as male, trans, and gender-diverse people.

Transitional housing can be available for a longer period, with most programmes offering housing support for six to twenty-four months. These programmes allow survivors more time and space to secure permanent housing. Unlike emergency shelters, transitional housing can be structured in a congregate model, where survivors reside in a common home, or in a scattered site model, where the programme provides a rental subsidy and survivors reside independently in the community. Programmes may also take on the primary lease in order to reduce barriers that survivors may face, such as a criminal record, limited or no credit history, or no current income. In this process, anti-trafficking programmes may rely on relationships with landlords within their communities.

Finally, *permanent housing* options do not have a time limit for residence set by a programme, but the time frame may be set by a standard lease. Permanent housing options in the US can vary from self-resolution to federal rental assistance. The Housing Choice Voucher Program (colloquially referred to as 'Section 8') is the largest rental assistance programme and assists around two million households annually.[5] Studies have shown that the vouchers significantly reduce homelessness among low-income households, foster care placements, and psychological distress.

However, despite these benefits, many barriers exist to receiving permanent housing support. One well-documented barrier is long wait times for rental vouchers; for example, the Housing Choice Voucher Program has a waitlist that

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3 See Freedom Network USA, *Housing Options for Survivors of Human Trafficking*, FNUSA, 2020, https://freedomnetworkusa.org/app/uploads/2020/07/Housing-Options-for-Survivors-of-Trafficking-Final.pdf, pp. 1–2.

4 No author, 'Housing Needs of Survivors of Trafficking', National Survivor Network, n.d., retrieved 17 February 2023, https://freedomnetworkusa.org/app/uploads/2019/07/NSN_HousingFAQ-1.pdf.

5 B Sard, 'Housing Choice Voucher Program: Oversight and review of legislative proposals', Center on Budget and Policy Priorities, 2018, https://www.cbpp.org/research/housing/housing-choice-voucher-program-oversight-and-review-of-legislative-proposals.

averages 2.5 years, but can be longer depending on jurisdiction.[6] Additionally, due to funding limitations, 76 per cent of eligible households do not receive vouchers.[7] Finally, these programmes are not survivor-specific but open to all low-income, housing-insecure, or homeless populations, thus further reducing survivor-specific housing resources.

Overall, housing options for trafficking survivors are limited and the process for securing longer-term housing is strenuous for both survivors and service providers. Service providers, however, can create and offer housing services that are both trauma-informed and person-centred and incorporate a voluntary services approach to service provision.

Trauma-Informed Housing

Trauma-informed care, which many anti-trafficking service providers, including housing programmes, are starting to integrate, recognises the pervasiveness of trauma and actively fosters an environment of healing and recovery while avoiding practices that may re-traumatise survivors. Trauma-informed practices embrace six key principles: safety; trustworthiness and transparency; peer support; collaboration and mutuality; empowerment, voice, and choice; and cultural, historical, and gender issues, as outlined in Table 1.[8]

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6 S Acosta and E Gartland, 'Families Wait Years for Housing Vouchers Due to Inadequate Funding', Center on Budget and Policy Priorities, 2021, https://www.cbpp.org/research/housing/families-wait-years-for-housing-vouchers-due-to-inadequate-funding.

7 No author, 'Three Out of Four Low-Income At-Risk Renters Do Not Receive Federal Rental Assistance', Center on Budget and Policy Priorities, n.d. https://www.cbpp.org/three-out-of-four-low-income-at-risk-renters-do-not-receive-federal-rental-assistance.

8 L Huang *et al.*, *SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach*, Substance Abuse and Mental Health Services Administration, Rockville, 2014, https://ncsacw.acf.hhs.gov/userfiles/files/SAMHSA_Trauma.pdf.

Table 1: Six Key Principles of a Trauma-Informed Approach. (Adapted from SAMHSA's Concept of Trauma and Guidance for a Trauma-Informed Approach.)

Key Principle	Housing Application
Safety	Staff and survivors feel physically and psychologically safe. Safety is defined by the survivors.
Trustworthiness and transparency	Programme decisions are made with transparency. Maintaining survivors' trust is a central goal.
Peer support	Programmes collaborate with survivors. Peer support and mutual self-help are key to establishing safety and enhancing collaboration.
Collaboration and mutuality	Programmes share power with those they serve. All roles in the organisation contribute to a trauma-informed approach.
Empowerment, voice, and choice	Survivors are supported in shared decision-making, choice, and goal setting.
Cultural, historical, and gender issues	Programmes incorporate policies and procedures that are responsive to the racial, ethnic, and cultural needs of those served. They recognise and address historical trauma.

These principles can be integrated into a housing programme, by embracing the Housing First model and the voluntary services model.

Housing First prioritises providing housing. The model acknowledges that individuals who are housed can better engage in social services and pursue self-identified goals. Survivors identify their priorities and take steps to be safer in their lives. For example, a person may decide not to abstain from alcohol, but instead reduce their intake from daily to weekly. Typically, the Housing First model is implemented utilising non-congregate housing by providing rental assistance or subsidies for survivors either through rapid re-housing or standard transitional

housing support. While a relatively new model, existing literature has supported the efficacy of Housing First principles among a wide array of populations.[9]

Trauma-informed housing prioritises autonomy and self-determination by meeting the individual housing and service needs of survivors without preconditions or requirements. It is rooted in the principle that survivors are the experts of their own life and can make decisions that will meet their needs. The voluntary services model at the core of trauma-informed housing returns control and empowerment to survivors and promotes relationship-building. Providers can advocate alongside survivors and encourage their long-term success.[10]

Methodology

In 2020-2021, FNUSA's Housing Training and Technical Assistance Project reviewed the written policies and procedures of seventy-three programmes funded by OVC to provide housing to survivors of human trafficking. The goal was to ensure programmes were providing services that implemented a trauma-informed and voluntary-service model. The review process consisted of FNUSA staff meeting with grantees to learn about programme operations and guiding frameworks, before providing written feedback on programme policies and procedures. This feedback included suggestions, follow-up questions about programme services, and additional resources to support the implementation of trauma-informed and voluntary services. Reviewers identified policies that resisted re-traumatisation, allowed individuals to choose the services they wished to utilise, as well as the frequency, and were transparent in the scope of the programme. For example, programmes that allowed survivors to determine how the screening and intake process was conducted, allowed individuals to self-identify their needs and goals, and had created power-sharing throughout the engagement with the programme were identified as implementing trauma-informed and voluntary services.

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9 J Waegemakers Schiff and J Rook, *Housing First: Where Is the evidence?*, Homeless Hub, Toronto, 2012, https://yorkspace.library.yorku.ca/xmlui/bitstream/handle/10315/29373/HousingFirstReport_final.pdf.

10 National Network to End Domestic Violence, 'Understanding the Basics of the Voluntary Services Approach', NNEDV, 2017, https://nnedv.org/wp-content/uploads/2019/07/Library_TH_2018_Understanding_Basics_Voluntary_Services_Approach-1.pdf.

Results

The reviewed anti-trafficking housing programmes had with a variety of housing models, ranging from emergency shelters to rental assistance programmes.

While most programmes described themselves as trauma-informed, 60 had written policies or procedures that were identified as not aligned with a trauma-informed approach. Most (n=21) had 3 or more policies that conflicted with the trauma-informed approach. These are shown in Table 2. While clear differences arose between programmes that had a residential/shared home component, programmes that offered scattered-site rental assistance also had practices that conflicted with the voluntary services model, namely requiring mandatory engagement in supportive services, such as case management, therapy, or group skills training. Policies that were contradictory to trauma-informed approaches included requirements for sobriety, drug testing, and intrusive mental health and physical health screenings. Such screenings include mandatory biopsychosocial assessment and HIV/tuberculosis testing in order to access housing within the programme.

Three policies—requiring that participants save a percentage of their earnings (mandatory savings), enforcing curfew, and mandating employment—were equally common. For example, participants were required to save a percentage of their earnings (usually 10–30%), which could be held by the programme until survivors exited. Curfew times varied, but they could all create a challenge for participants whose work schedules or activities fell outside of the curfew hours. Most restrictive policies were held by residential anti-trafficking programmes, rather than those who provided rental assistance.

Table 2: Housing Policies and Feedback Implementation.

Policy	Programmes with policy before FNUSA feedback	Programmes with policy after FNUSA feedback
Drug testing or sobriety requirement	24	7
Mandatory physical or mental health screenings	12	5
Mandatory savings (residents are required to establish a savings account)	6	2
Curfews	6	5
Income or job requirement	8	3
Survivors' medications required to be stored by the programme	4	3
Mandatory chores	5	3
Monitoring or limiting communication outside of the programme	10	4
Room search	11	7

Responses to Feedback

FNUSA's feedback to the anti-trafficking programmes included suggestions of alternative practices and policies that were centred on a trauma-informed and voluntary services approach. Fifty-six programmes revised their policies in response to this feedback. However, 17 did not revise some or most of their policies to become more trauma-informed, person-centred, and voluntary. Programmes indicated that they were unable to change their policies due to requirements from funding streams, staff capacity, lack of training, and organisational resistance.

Conclusion

Most OVC-funded anti-trafficking housing programmes identified as trauma-informed. Yet, more than three-quarters included written policies and procedures

that were at odds with the standards of trauma-informed approaches. Policies such as mandated sobriety, case management, required STD/STI testing, and curfews, while common, are contradictory to a trauma-informed approach as they curtail both survivor empowerment and choice. Such policies also undermine staff collaboration with survivors and instead contribute to a relationship that holds power over survivors, especially as it relates to housing.

Access to safe, trauma-informed housing remains a significant issue as survivors exit their trafficking situation. Despite the wide variety of housing options available in the US, barriers such as housing availability, eligibility, and programme requirements often preclude survivors from accessing housing. As anti-trafficking housing programmes continue to evolve and better support survivors with accessing and retaining housing, implementing a trauma-informed approach that supports long-term safety and prioritises survivor choice and voice is paramount.

Housing programmes should look for ways to partner with the survivors they serve and work in a collaborative way that highlights the right to self-determination and avoids replicating the power and control dynamics experienced during trafficking situations. Programmes should strongly consider eliminating policies that do not allow for flexibility, such as zero-tolerance for substance use or strict curfews. They should also work to increase participant engagement through feedback and create more choices for survivors. It is critical that housing programmes thoughtfully review their policies, procedures, and practices by regularly seeking participants' feedback to identify meaningful ways to centre them within their programme. This may include offering continuing education and training for staff in trauma-informed housing and care. No programme will be able to control all of the dangers that may be encountered in everyday life. However, programmes may successfully address potential concerns through harm-reduction strategies. These strategies can include fostering transparent conversations regarding programme boundaries, and, in a non-judgmental way, explore how programmes can support individuals in navigating risky behaviours by identifying safer practices without fear of punitive measures such as losing housing or other supportive services.

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'I'm Scared to Death to Try It on My Own': I-Poems and the complexities of religious housing support for people on the US sex offender registry

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Abstract

In the US, street-based sex workers and people convicted of sex offences are both 'special populations', often with additional conditions of community supervision. People convicted of sex offences experience a complicated mix of assistance and surveillance as they re-enter society post-conviction, including numerous restrictions on housing and employment. As a result, they are especially likely to experience homelessness upon release. This article uses I-Poems drawn from interviews with volunteers and professionals who navigate the obstacles to re-entry that govern people on the sex offender registry. We focus on people with religious affiliations (n=38) who provide urgent support during the re-entry process. I-poems are a feminist technique for analysing qualitative data that forefronts the voices of people not often heard and distils complex experiences into accessible narratives. While few in our study overtly exploited re-entering persons on the registry, most support was problematic in subtler ways: we found that re-entering registrants are asked to accept constrained choices involving labour, religious participation, and romantic and other personal relationships in order to receive assistance. Given the secondary stigma attached to work with people convicted of sex offences, and the obscurity within in which many of these religiously-affiliated programmes operate, I-Poems both humanise and reveal the complexities of coercion, religious calling, and supportive housing.

Keywords: sex offender policies, housing, residency restrictions, re-entry programmes, homelessness

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When people exit prison, where to live is often the primary concern. The Prison Policy Initiative found that formerly incarcerated individuals in the United States (US) experience nearly ten times the risk of homelessness. Formerly incarcerated women and people of colour are especially vulnerable to homelessness. In addition to race and gender, those who have been incarcerated more than once and those who are within two years of release are at higher risk than the general formerly incarcerated population.[1] In 2017, the US Department of Housing and Urban Development found that 51,936 individuals residing in emergency shelter or transitional housing programmes came directly from a correctional facility.[2] Loss of employment, lack of family support, racial discrimination, and discrimination based on criminal history can all lead to precarious housing or a lack of housing entirely.

In the US, scholars have noted a surprising and unintended consequence: "[R]ecent emphasis on the policing of commercial sex to combat human trafficking has brought with it an increased number of people subject to the monitoring and punishment of the registration system… [including] women in the commercial sex industry, many of whom have themselves faced exploitation and coercion but are charged as the ultimate bad actors".[3]

In a few US jurisdictions, conviction for a prostitution charge is itself categorised as a sex offence and requires registration. However, registries are predominantly made up of people who have been convicted of crimes that include possession or transmission of child pornography, child sexual abuse, and sexual assault, as well as some non-contact offences like indecent exposure. In addition, street-based sex workers and people convicted of sex offences[4] are considered to be part of 'special populations' whose conditions of community supervision go beyond those typically enforced, for example, requiring trauma treatment for the former and anger management or sex offender treatment for the latter.[5] In some jurisdictions, the same specialised probation and parole units handle both groups,

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1 L Couloute, 'Nowhere to Go: Homelessness among formerly incarcerated people', Prison Policy Institute, August 2018.

2 M Henry *et al.*, *The 2017 Annual Homelessness Assessment Report (AHAR) to Congress, Part 2: Estimates of Homelessness in the United States,* US Department of Housing and Urban Development, October 2018.

3 K Mogulescu and L Goodmark, 'Surveillance and Entanglement: How mandatory sex offender registration impacts criminalised survivors of human trafficking', *Anti-Trafficking Review*, issue 14, 2020, pp. 125–130, p. 126, https://doi.org/10.14197/atr.2012201410.

4 We use person-first language and the terms people use about themselves whenever possible, including 'registrant' for people on the sex offender registry.

5 C S Shdaimah, C S Leon and S A Wiechelt, *The Compassionate Court? Support, Surveillance, and Survival in Prostitution Diversion Programs,* Temple University Press, 2023.

which professionals in our research explain as necessary because their experiences are so 'extreme' that other professionals might find them unbelievable. The sex offender registry and the assumptions undergirding specialised prostitution caseloads both compound housing precarity, and survivors of trafficking in the US criminal legal system can be subject to both.

In other work which focuses on street-based sex workers involved in court-based diversion programmes, we have documented the way professionals demonstrate sincere concern for programme participants but are shaped by the broader criminal legal system's reliance on hyper-responsibilisation, 'expecting defendants to bootstrap themselves over systemic hurdles with virtually no resources'.[6] While this kind of 'targeted sympathy' is better than the othering and invisibilising that pervades contemporary penality, it continues to 'decontextualize individuals and assign blame and accountability'.[7] A study of Texas diversion programmes for sex workers highlighted that the absence of formal agreements with service providers left participants at the whim of external requirements, even when the requirements bore no relationship to the court's own directives to the participants.[8] This complicated mix of assistance, surveillance, and unreviewed discretion is experienced by people who are broadly subject to the control of the criminal legal system, but for people convicted of sex offences, this complexity is compounded by the additional network of post-conviction restrictions aimed at the heterogeneous group called 'sex offenders'.[9]

Thirty-three US states and numerous local jurisdictions have enacted residency restrictions which prohibit people on the sex offender registry from living, working, and/or going to school within a certain distance of a school, park, daycare, or place where children might congregate.[10] As a result of these limitations, people convicted of sex offences are especially likely to face homelessness when released

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6 C S Leon and C S Shdaimah, 'Targeted Sympathy in "Whore Court": Criminal Justice Actors' Perceptions of Prostitution Diversion Programs', *Law & Policy*, vol. 43, issue 2, 2021, pp. 126–148, p. 141, https://doi.org/10.1111/lapo.12166.

7 *Ibid.*, p. 127.

8 J M Blakely, D J Mueller, and M Richie, 'Strengths and Challenges of a Prostitution Court Model', *Justice System Journal*, vol. 38, issue 4, 2017, pp. 364–379, https://doi.org/10.1080/0098261X.2017.1327335.

9 C S Leon and A R Kilmer, '"Secondary Registrants": A New conceptualization of the spillover of community surveillance and control', *Punishment and Society*, Advance online publication, 2022, https://doi.org/10.1177/14624745221094255.

10 E Suiter and T S Anderson, 'Residency Restrictions, Race, and Homelessness Among Registered Sex Offenders', *Criminal Justice Studies*, vol. 35, issue 2, 2022, pp. 132–144, https://doi.org/10.1080/1478601X.2022.2026352.

from incarceration.[11] These challenges are multiplied for some subgroups, including Black people[12] and military veterans.[13] While LGBTQ+ registrants have not been found to face more homelessness or housing insecurity than straight cisgender registrants, they are significantly less likely to own property and more likely to be renters.[14] Public housing authorities and private landlords commonly bar people convicted of sex offences, adding additional barriers beyond what the law requires.[15] In a recent survey of registrants, half reported that a landlord barred them from renting due to their registry status.[16] Our previous research found that tenants who are on the registry report a 'sex offender surcharge', the illegal practice of requiring additional rent or other fees that registrants and their families rarely feel able to challenge.[17]

Homeless shelters can also be inaccessible to people on the registry because of residency restrictions or organisational policies. In New York City, for example, only four shelters are both in compliance with residency restrictions and able to shelter registrants.[18] Homeless shelters often implement a variety of policies regarding curfews, substance use, and length of stay; employees of these shelters employ discretion and flexibility, and can decide when to break policies in order to achieve their goal of reducing homelessness. These employees, however, seldom approach policies regarding people on the registry with flexibility and rarely break their own rules in order to shelter registrants. When shelters do make

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11 J Levenson, 'Hidden Challenges: Sex offenders legislated into homelessness', *Journal of Social Work*, vol. 18, issue 3, 2018, pp. 348–363, https://doi.org/10.1177/1468017316654811.

12 Suiter and Andersen.

13 T Byrne *et al.*, 'Association Between Registered Sex Offender Status and Risk of Housing Instability and Homelessness Among Veterans', *Journal of Interpersonal Violence*, vol. 37, issue 7-8, 2022, https://doi.org/10.1177/0886260520959646. Byrne *et al.* found that veterans on the registry were nearly twice as likely to report housing instability or homelessness than veterans not on the registry (p. 822).

14 T Hoppe *et al.*, 'Civil Commitment of People Convicted of Sex Offenses in the United States', UCLA School of Law Williams Institute, 2020.

15 The federal government mandates that all public housing authorities (PHAs) must bar people who are required to register as sex offenders for the rest of their lives from public housing, though state laws may dictate that public housing authorities restrict a broader group than lifetime registrants. See M McCarty *et al.*, 'Drug Testing and Crime-Related Restrictions in TANF, SNAP, and Housing Assistance', Congressional Research Service, 2015.

16 Hoppe *et al.*

17 Leon and Kilmer, p. 9.

18 A Frankel, 'Pushed Out and Locked In: The Catch-22 for New York's Disabled, Homeless Sex-Offender Registrants', *Yale Law Journal Forum*, vol. 129, 2019, pp. 279–324.

exceptions for registrants, they are more likely to make them for those convicted of less serious offences.[19]

Our prior work shows that many people who support registrants out of familial duty or friendship are 'secondary registrants' who experience the state's indirect regulation of their day-to-day lives.[20] These secondary registrants support their loved ones by providing financial resources, offering emotional support, and fiercely advocating for their loved ones as they navigate the criminal legal system, and do so while also experiencing significant stigma and other direct effects of the registry. Some of these individuals moderate this stigma through advocacy for registry policy changes through formal roles in non-profits and as members of legal advocacy networks. Those who act as re-entry supporters (the subject of this article) through their formal roles share some features with these family members, including the experience of stigmatisation and the offering of support and advocacy, but little is known about people who support re-entering registrants through formal roles. This research explores the power such re-entry supporters hold over people who can be returned to prison if they fail. We focus on those who do this work within religious organisations because there is a unique presence of Christian ministries that provide housing and other supports to registrants, and even less is known about these organisations.

Methods

To fill this gap, we interviewed people working as what we call 're-entry supporters' in order to distinguish our respondents from probation and parole officers or others working for the state. We focus on non-governmental re-entry supporters who provide urgent assistance with housing, employment, and pastoral care, and with facilitating social or peer support. All research was conducted with Institutional Review Board approval. Participants were recruited through a combination of snowball sampling that began with contacts within our own networks and outreach to organisations found on the internet or in news media. We asked about their motivations for and experiences with working with people on the sex offender registry during in-depth, semi-structured interviews conducted over Zoom or by phone with re-entry professionals and volunteers (n=38); each received a USD 20 gift card. The interviews ranged in length from 35 to 84 minutes.

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[19] S M Rolfe, R Tewksbury, and R D Schroeder, 'Homeless Shelters' Policies on Sex Offenders: Is This Another Collateral Consequence?', *International Journal of Offender Therapy and Comparative Criminology*, vol. 61, issue 16, 2017, pp. 1833–1849, https://doi.org/10.1177/0306624X1663846.

[20] Leon and Kilmer, p. 9.

We recorded and transcribed interviews. As a feminist practice, we invited participants to choose their own pseudonyms which we use throughout. In order to protect the confidentiality of participants, we removed identifiers, including but not limited to names, when editing the transcriptions of interviews.

We analysed the data using iterative consensus coding: we independently read a subset of interviews that we coded inductively and deductively, line-by-line.[21] We discussed our independent coding and created a consensus coding scheme which we then applied and further refined. To enhance analytical rigor, we used memoing, peer debriefing, and negative case analysis.[22]

Rather than a more traditional presentation of our data, we primarily use I-poems.[23] We constructed these poems using the respondent's words, pulled directly from interview transcripts, to provide a pithy and accessible version of their interview that centres the voices of research respondents.[24] To create I-Poems, we used the coding output from interviews with re-entry supporters conducted by the first and second authors by pulling 'I,' 'You,' and 'We' statements in the order they appear in the transcripts. We focused on statements from the interviews that related to motivation, rules, housing, and programme participants' employment. Unlike in other work, we do not provide poems that cover all or nearly all the 'I,' 'You,' and 'We' statements in the entire transcript since the interviews were wide-ranging.[25] Instead, we selected thematically relevant phrases. We preserved the words of the respondents, making only minor edits for confidentiality and clarity. We made every effort to contextualise the poems so that they reflect fidelity to the

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21 K A R Richards and M A Hemphill, 'A Practical Guide to Collaborative Qualitative Data Analysis', *Journal of Teaching in Physical Education*, vol. 37, issue 2, 2018, pp. 225–231, https://doi.org/10.1123/jtpe.2017-0084.

22 D K Padgett, *Qualitative Methods in Social Work Research*, 3rd edition, Sage, Thousand Oaks, 2017.

23 C Gilligan *et al.*, 'On the Listening Guide: A Voice-Centered Relational Method', in S N Hesse-Biber and P L Leavy (eds.), *Emergent Methods in Social Research*, Sage, Thousand Oaks, 2006, pp. 253–272.

24 M Buckridge, J Lowman, and C S Leon, "'I'm gonna speak for me": I-Poems and the Situated Knowledges of Sex Workers', *Ethics and Social Welfare*, vol. 16, issue 2, 2022, pp. 214–218, https://doi.org/10.1080/17496535.2022.2042039. See also M Bailey-Kloch, 'Poetry in Street-Based Sex Work', in K Hail-Jares, C S Shdaimah, and C S Leon (eds.), *Challenging Perspectives on Street-Based Sex Work*, Temple University Press, 2017, pp. 227–232.

25 *Ibid.*; for additional I-poems from this and other projects, see also I-Poem Project, 'The Voices of Reentry Workers', 2021, https://i-poemproject.wixsite.com/udel/poems.

respondents.[26] In a few cases, we also provide short excerpts from the interviews that are not in the form of I-poems but provide important context. We do not, however, provide extensive interpretation or editorialising, in keeping with the intention inherent in the I-poem approach of giving readers a less-mediated version of participant's narratives—it is also pragmatic given the length of the selections used for the I-poems.

We start with short I-Poems from re-entry supporters for whom this work falls under their employment with the United Methodist Church, followed by I-poems that also include people who provide re-entry support for people on the sex offender registry within non-denominational and independent organisations. We conclude with longer I-poems from two re-entry supporters whose own contact with state systems of surveillance and control shaped their programmes, including Richie who himself identifies as a sex offender.

'We Just Push People on the Registry Aside': Obstacles to housing

Paula and Reverend Brian are clergy in the United Methodist Church.[27] They described the challenges of a criminal legal system that is apathetic to the plight of the formerly incarcerated, including people on the registry. Their work is shaped by their role in a large institution (the United Methodist Church) and their lived experiences that do not include incarceration.

> **We just push people on the registry aside:** ***Paula (UMC Pastor)***
> We just push people on the registry aside and think out of sight, out of mind
> We're making people be desperate and having to literally…their addresses are living under a bridge or being transient or their address is on a street corner
> We are hurting society by these rules
> We're not getting…some of our laws are not keeping people safe there
> We're not paying attention to the people who aren't yet on the registry.
>
> **Giving fewer fucks:** ***Rev. Brian (UMC Pastor)***

[26] For a few, we moved quotes from the order they appeared in the transcript, but when we did so it was to preserve the chronological order of their overall story. For example, in Richie's I-poem, we moved a few sections for clarity to describe his trajectory from offending and then prison to running his programme.

[27] Both Paula and Rev. Brian are credentialed reverends in the United Methodist Church. We invited all interviewees to select their pseudonym and title. We refer to Paula without a title and to Reverend Brian with his by their explicitly stated preferences.

Enough people are dead
I was in this position
I think
I was more willing to put up with, especially locally elected officials', crap
I was fearful that
I would somehow cut the relationship off
if I was like, too forward, telling them that homeless people are dying
I wish I had, I had, and you'll have to forgive the language here, but like,
2019 was my year of giving fewer fucks
I was like, no, no more of this
I'm not gonna
I don't want to play this anymore. If the relationship is done, you don't want to talk to me anymore, fine—enough people are dead
I wish I had started that a little earlier.

Both Paula and Reverend Brian acknowledge the harms of policies focused on registered sex offenders that cause homelessness. Both spoke with indignance and impatience. Reverend Brian shared that as he learns about this unintended consequence, he evolved into a more brash and direct advocate, less concerned about maintaining relationships with officials than with speaking truth to power.

Other interviewees' approaches, careers, and callings were profoundly changed by their personal experiences of incarceration, criminalisation, and homelessness. Robert Falconer is a Christian man who, though he was never incarcerated, experienced homelessness and instability that greatly impacts how he comes to his work with people convicted of sex offences. Richie committed and was incarcerated for a sexual offence, and also brings the perspective of a follower of Christ. Falconer and Richie each founded small religious ministries that provide housing and other support to people on the registry.

Robert Falconer explained that he founded the ministry 'by accident', driven by his calling to help, his connections to other organisations, and the needs of the community. In the interview,[28] Robert explained that each programme participant pays USD 400 a month for housing and necessities, excluding food and hygiene products. He explains,

> *We try to keep it as low as possible because a sex offender has to wear a bracelet [electronic monitoring, common in the US], [for which] they're paying $275 a month. And they have to go to treatment and they're paying $275 a month: that's $550. Now they're only going to probably have a minimum wage job to start with. How are they going to save any money to ever get out of here and*

[28] While I-poems often convey the crux of interviews, more traditional quotes from respondents can provide important context.

> *get their own place if we're charging more money? So we're charging as little as we can… And we don't own any of the properties, we rent everything. None of us get paid.*

This cognizance of the high costs of demonstrating compliance for people on the sex offender registry is also reflected in his description of his motivation:

> **I understand what it's like to be completely alone:** ***Robert Falconer (Independent Religious Ministry)***
> I grew up homeless at times, inner city, drugs, everything
> I was young
> I was separated from my family
> I haven't seen my brothers and sisters, except one, since I was 18
> I lived nomadically
> I never knew anybody for more than three years
> I moved from city to city
> I would end up homeless
> I understand what it's like to be completely alone, not having anyone to call
> I believe Christ changed my life.
>
> I was invited up to the prison with another organisation
> I was there
> I ran into the warden, and he asked me if we could use the beds for the guys in prison
> I said sure
> I then ended up interviewing over 30 people
> I had no idea what to do
> I didn't know anything about the prison system, anything
> I went back that night
> I got on my knees
> and I prayed
> and I cried
> and I said
> Lord, I have no idea who to take out of prison
> I'm clueless
> I don't know how to go about this
> I went back the next day and said, 'we'll take anybody that doesn't have any other place to go.' So, anyone that can go to a pre-release, anyone that has family they can go to, all that, I eliminated them
> I had absolutely no idea at the time that that would mean we'd be primarily taking long-term violent offenders and sex offenders.

Robert Falconer reveals the intensity and urgency of his calling to support re-entering registrants, as well as his reliance on divine inspiration. Given his criminal record, he may not have had access to more traditional ways of learning organisation management through formal training or professional experience, instead demonstrating the kind of entrepreneurial, self-help that is evident in international scholarship on re-entry[29] but may have particular salience in the US due to its systemic racism and lack of a social safety net.[30]

Like Robert Falconer, Richie also drew on personal experience and recounted a similar epiphanic realisation that Christ had called him to serve. In the first several stanzas he describes how he became a sex offender, then how he survived in prison and came to feel empathy for others through prison work. He then explains his calling to start a programme that serves people re-entering with arguably the most stigmatised label in the US: those who are not just on the sex offender registry, but sexually violent predators (SVPs).[31] While most of our respondents were blunt, Richie was uniquely direct, displaying in our interview the same kind of straight talk he described as crucial to his support of re-entering people.

> **God struck me:** ***Richie (Independent Religious Ministry)***
> I'm a sex offender
> I'm just telling you a life story
> I acted violent
> I was put in homes for kids, until I was 16
> I didn't know how to deal with it [being victimised] so I've learnt to become a sociopath basically
> I went to the most unfathomable thing
> Everyone that I knew in my culture said child molesters should be shot, and I believed that
> If I ran across a halfway house like this [where he works now] where I grew up, we would have burnt it down
> So, I'm a sex offender.

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29 L Keena and C Simmons, 'Rethink, Reform, Reenter: An entrepreneurial approach to prison programming', *International Journal of Offender Therapy and Comparative Criminology*, vol. 59, issue 8, 2015, pp. 837–854, https://doi.org/10.1177/0306624X14523077.

30 R Smith, '"Gizza a Job, I Can Do That": What the Literature Tells Us About How the Inability to Secure Employment Can Lead to Ex-Offenders Starting a Business', in T M Cooney (ed.), *The Palgrave Handbook of Minority Entrepreneurship*, Springer Nature, Cham, 2021, pp. 289–317.

31 Hoppe *et al.*

I'm an alpha male
I didn't get driven into the corner like some of the men I know
I wouldn't let anybody shove me around.
Well, I've seen a lot of people getting shoved around
And I just wanted to be somebody that gave them the ability to regain themselves
I understand what I did, and what they did, is horrible
I accept that
I had no reason to
I'm spinning here
I was a piece of shit—let's be realistic
I did something that should not have been done
And I knew soon as I did it [gasps] and I don't want to do it again.

So when I climbed out of that pile of shit, I knew there were other people stuck in a pile of shit, and they wanted a chance.

I didn't want to do this work.
I'm not going to ask you if you're religious, but I had an epiphany in prison
And God struck me and I opened a house for people like me.

I had to find a way out of my prison in my mind, socially, spiritually
I was that guy, nobody wanted to be around me and I didn't know how to fix that
So, I found my way through with the church and became socially connected again
When I learnt about empathy, I learnt how to care about people again
And I knew that connection, and one of the healing things in my life is when my church embraced me.

I spent two and a half years sitting in my bed thinking about suicide every day
I lost my wife
I lost my family
I lost everything
I became a social pariah
I was watching The Shawshank Redemption and there's a line that said, 'either you get busy living, or get busy dying'
And so, in my mind, either I'm going to hang myself or…
So in the morning, I woke up and I got out of the bed, I hit the floor, and said 'I can't'
What I was saying is, 'Open the door and let me out', sort of like when Paul and Barnabas, when they were in prison, and the genuine earthquake happened
That's what I wanted to happen.

> But what happened is I started pushing men in wheelchairs across the prison because they were in hospital jail
> I had to listen to these men
> I went from wanting to beat them with the wheelchair because I didn't want to hear what they said to actually wanting to listen to them
>
> We have a thing where I say, '200% accountability' that means I have to be completely honest with myself [and also you] don't bullshit me
> I won't accept it.
>
> I specifically work with SVPs. When they first get here, I tell them, people in prison will always tell you what they think about you
> I choose: 'I've got your back'
> And I tell them as soon as they come here everybody in the house dotes on everybody else
> I ask you to choose their recovery
> I can't force you
> I care about you enough that I'll put my foot in your ass and tell you what I think.
>
> I'm not a dictator, and the success of this programme is not me, it's them
> I help Jimmy, I get better, and when Jimmy helps me, I get better when he helps me: it all gets better, you know the classical peer-to-peer facility. That's what this is based on. Yeah, but it's got a Jesus twist.
>
> I put on Facebook the name of our housing and movers companies, and everybody in town who knows who we are, knows we are a sex offender programme: our work module will do the moving for you
> This is a post-prison ministry, and I put it on Facebook and I haven't been beat up
> I think I have a lot of support in the community
> I don't know how that happened
> And it's not me, it's not my power, it's not my convincing
> I believe that the power that brought me to my knees, also gives me a bit of protection in this thing.

The bravado and rugged individualism that Richie exhibits echo many of our other respondents who implemented their own programmes, similarly described as called to do so by God. Sometimes they explicitly acknowledge that they themselves had few other choices, i.e., that they were excluded from traditional employment like the population they chose to serve and that they are aided by the programme themselves, 'the classical peer-to-peer facility… with a Jesus twist.' A few also explicitly indicate that they do not seek or accept any government contracts or state funds in order to operate as independently as possible, making their own rules and determining what works based on their faith and their own experience.

All of our respondents, including the four re-entry supporters featured here, convey their sincere desire to help people on the registry, derived from witnessing and experiencing the harms caused by US sex offender laws and the urgent need for housing and supportive communities. It is stigmatised and risky work.

Conditional Assistance: Labour and religious expectations

Re-entering people and re-entry supporters face urgent pressure to show probation and parole regimes that they are compliant, through evidence of housing and employment. Even compassionate criminal legal system professionals may use the vulnerabilities created by the criminal legal system to coerce compliance with programme fees, rules, or requirements they paternalistically believe to be in participants' best interest, as we have described elsewhere as 'effecting responsibilization for the purposes of rescue and public safety'[32] and which we see in this sample of re-entry supporters as well. In this section, we highlight the conditional, coercive, and potentially exploitative effects of the often-unknown rules and practices enforced by re-entry supporters that are made possible by their independence from government funding and related oversight.

It is common for emergency housing shelters in the US to require participants to pay rent as well as additional programme fees and to conform to strict rules that may range from enforcing hours that participants must be out looking for work, prohibitions against romantic relationships, zero-tolerance policies for substance use, or prohibiting the presence of their children over a certain age. One respondent, Sam, an executive director of a religious re-entry and prison ministry, put it succinctly, 'no booze, no drugs, no women.'

Elizabeth is a clergywoman in the United Methodist Church and though her role does not involve formal re-entry ministry, her church provides re-entry support in other ways.[33] Like Paula and Reverend Brian, she lacks personal experience with incarceration. Elizabeth's church, nicknamed 'Church of the Second Chance', offers odd job opportunities to people with a need for cash, including people on the registry.

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32 Leon and Shdaimah, p. 138.

33 Like Paula, Elizabeth is a credentialed clergywoman in the United Methodist Church who chose not to include a title like Reverend in her pseudonym.

Hand up, not a handout: ***Elizabeth (UMC Pastor)***
Where we can we employ our people
We help give them ways to have a hand up, not a handout, you know, to earn it for themselves, and to do for themselves what they can.

We've got a lawn mower and y'all can come mow the lawn this one time
We would love for you to come and weed our flower beds real quick.

Elizabeth was one of many participants to use the phrase 'hand up, not a handout'. The prevalence of this metaphor reveals the emphasis on individual empowerment that motivated many of the programmes. There is an expectation that re-entering persons should be able to 'pull themselves up by their bootstraps' even within the context of penal control. When programme participants or community members cannot obtain formal employment, they may perform labour for churches or other independent religious ministries. While Elizabeth's church offered paid labour options, other ministries may expect that re-entering persons work for their organisations without compensation. Only a very few outliers in our study relayed information that we interpreted as overt exploitation of re-entering persons generally or of those on the registry, for example, requiring them to hand over their identification documents and welfare checks. But re-entry supporters who provide temporary or one-time assistance may also be unintentionally coercive or exploitative: what pressure to perform the manual labour at whatever wage is offered, for example, may someone in Elizabeth's congregation feel? This concern pervades the next I-Poem featuring Bubba, the driver and assistant manager at a re-entry ministry at which he was initially a 'regular resident'. Bubba's experiences are shaped by his disability status and experiences as a person convicted of a sex offense. The I-Poem below reflects the complexity of exploitation, religious calling, and supportive housing.

I'll probably be here for a long time: ***Bubba (Independent Religious Ministry)***
I don't get paid
But I do
I still get the, you know, the housing
I pay fees like everybody else
I just, several years ago, I dedicated my life to God and to the ministry.
It's saving my life.

I was a druggie on the street so
I lost everything
I'm on disability. So that's my pay
I also needed a structured environment in my life
I, you know, uh
I'm scared to death to actually go out and try it on my own
I can't afford it, on disability

> I don't get more than $844 a month. That's not much money
> I have a truck
> I pay my insurance
> I'll probably be here for a long time.

Bubba enjoys some additional privileges compared to other residents. But in addition to rent and other programme fees that all residents pay, he also pays for his own car insurance, despite the programme's dependence on his car for transporting the other residents. Bubba's situation underscores the fine line that exists between ministries and other organisations helping re-entering people on the registry get back on their feet, and exploiting their vulnerability, lack of resources, and fear for their free labour. Bubba's lack of resources and difficulty meeting basic needs with only his disability pay benefits the ministry where he resides, because they can count on Bubba as a source of free labour and as a resident paying fees. Re-entering registrants are especially vulnerable as so few of the already scarce pool of support programmes in the US will accept people on the sex offender registry, as noted in the NYC study mentioned above. Thus, re-entering registrants may accept constrained choices involving labour, religious participation, and romantic and other personal relationships in order to receive assistance.

A few registrant re-entry supporters in our sample viewed programme participants as a legitimate audience for their proselytisation. Religiously affiliated shelters and programmes can require prayers and worship services and can condition access to services on religious belief. Some of the programmes made religious expectations explicit, while a few declared on their websites that clients need not be Christian to apply. We asked about these rules and expectations, leading respondents like Richie to distinguish their own approach from one that required religious participation: 'The purpose is to learn to honour people and allow them to come from what they need. If I say to you come to *my* church, I might subvert the Holy Spirit's ability to take you where you need to be.'

Some respondents explained that while they did not expect fidelity to a specific denomination or ideology, some religious identities were patently unacceptable. For example, Sam, an executive director of a religious re-entry and prison ministry, declared, 'if he's a Mormon, or Jehovah Witness, if he's been involved in a cult, that has a different Jesus from the Bible. We don't accept him… If he's a Muslim. God bless him. He's not coming.' Richie also compared his programme's approach, which did not enforce rules with zero tolerance or specific religious declarations or practices, to those who enforced strict rules that included religious participation:

> *They are more of the rigid Christian thing. But they are the 'last chance ranch' for anybody that can't find something. In other words, when you've exhausted every other house and they laugh when you show up, [the rigid Christian*

> *programme in town] will take anyone… [But] you have to be broken… Not a lot of people stay, but it does work for people: they're there on a rescue mission of sex offenders. And because they're the last option somebody has, they make the rules whatever they want.*[34]

This 'rigidity' is in line with the 'sex offender surcharge' that our previous research found among landlords who charge tenants who are on the registry more than their other tenants, exploiting the vulnerability created by US sex offender law.[35]

Conclusion

Religious re-entry supporters work both within and against the system of obstacles to re-entry and reintegration that govern people on the registry; nearly all of our respondents lacked robust organisational or other support. They may do this work as part of their larger role within a religious organisation (like the pastors) or may be essentially one-person missions, cobbling together resources (like Robert Falconer and Richie). Given the US's lack of a robust social safety net, even those re-entry supporters who are part of larger organisations are severely limited by the paucity of programmes and resources for people living in precarity, though this also creates the opportunity for them to create and enforce their own policies with little oversight, which can be coercive and occasionally outright exploitative.

Re-entry supporters in our sample who had experience working with registrants or were registrants themselves were blunt about the harms caused by US laws targeting sex offenders, in keeping with scholarship that documents that probation and parole officers who work with registrants in the US generally view legal restrictions on where registrants may live and work as ineffective.[36] Our respondents were more blunt in describing their struggle to meet urgent needs for housing within a broken and punitive system. Many re-entry supporters struggle against these laws to serve individuals, but usually without advocating for structural change and in some cases further responsibilising ('hand up not handouts'), and thus serving neoliberal penal projects.[37] While only a few blatantly exploit the lack of alternatives for registrants with housing precarity and under- or

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34 Following the interview with Richie, we called the ministry that Richie describes in this quote. After our introduction of the research, the individual on the other end of the phone immediately declined and hung up.

35 Leon and Kilmer, p. 9.

36 L Kaylor *et al.*, 'Input from the Frontlines: Parole and probation officers' perceptions of policies directed at those convicted of sexual offenses', *Psychiatry, Psychology and Law*, vol. 29, issue 6, 2022, pp. 900-925, https://doi.org/10.1080/13218719.2021.1995521.

37 Leon and Shdaimah.

unemployment, others may capitalise on this desperation in order to fulfil their calling or find meaningful work.

We chose to share these perspectives on the struggle to work with and against legal obstacles to housing and employment for people on the registry through I-Poems because they are stark, authentic, and sometimes beautiful. Rather than traditionally crafted poems that may focus on meter and rhyme, I-poems capture our attention with the natural language of participants and allow readers to appreciate the unique perspectives of people who are largely working in obscurity. I-poems centre participants—one small way to counter the lack of autonomy experienced by stigmatised and exploited persons. Re-entry supporters like those we spoke with are rarely recognised or queried about how they negotiate legal obstacles to housing for people on the registry; we hope these I-poems signal the need for more deliberate and further attention, and that future research will use a variety of methods to investigate the opportunities and pitfalls that characterise this heretofore unseen context of religious re-entry programmes and policies for people on the sex offender registry.

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