

Human Rights and Economic Opportunity Will End Trafficking

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Response to ATR Debate Proposition: ‘Prosecuting trafficking deflects attention from much more important responses and is anyway a waste of time and money’

Please cite this article as: J Thukral, ‘Human Rights and Economic Opportunity Will End Trafficking’, *Anti-Trafficking Review*, issue 6, 2016, pp. 134–137, www.antitraffickingreview.org

This statement by the editors of this issue on the place of prosecution in ending human trafficking is of course hyperbolic, but it points to a basic truth about different strategies to protect human rights around the world. The ultimate goal in any anti-trafficking work should be twofold: preventing trafficking from happening in the first place; and helping survivors reclaim their voices and their lives so they can define how they want to move forward. Engaged audiences care about trafficking as a global issue and find it horrifying because it violates a shared hope—dignity for all people—and the communal belief that everyone deserves a chance to thrive and seek opportunity in life.

Prosecutors and law enforcement do have a role to play in addressing trafficking, in those instances where victims and survivors affirmatively decide they want a criminal justice intervention. But victims and survivors of trafficking, as with people who have survived other violent crimes like domestic violence,¹ have very mixed views² on whether they want law enforcement involvement in their situations, viewing the police themselves as dangerous. Survivors rarely prioritise jailing of abusers over the opportunity to move on, seeking economic stability and protection of their own human rights. In fact, in the arena of anti-trafficking efforts, law enforcement has a history of engaging in raids that are not properly investigated. Instead, the raids focus on sex work and prostitution without evidence of coercion, making unfounded assumptions about the prevalence of trafficking.³

Law enforcement interventions do, at times, help survivors leave a dangerous situation. And if police and prosecutors work closely with communities affected by trafficking, they can close down some trafficking networks and help survivors connect with social workers and lawyers. But ‘help’ is not always well directed and the results can be disappointing, lacking in quality, or even dangerous. In the United States, some sectors of the criminal justice system also seek to provide services and job training for people believed to be survivors of trafficking. For example, in New York, specific courts are designated as Human Trafficking Intervention Courts, where people arrested on prostitution-related charges are referred to support programmes of varying quality and success.⁴ However, it is not clear at all that the people arrested are actually trafficked, or that they welcome this help being offered. This approach rarely leads to long-term economic opportunity for survivors, as the criminal justice system is poorly situated to enhance job opportunities for victims and survivors of abuse, and has never developed a strong track record in this area. This means that without significant financial investment from other sectors of government and from civil society, survivors and their families are left in precarious economic conditions, leaving them in vulnerable situations where they are at risk of being trafficked yet again, or at a minimum, going on to work in exploitative conditions.

For this reason, prioritising anti-trafficking funding towards solutions enhancing economic opportunity and safety in migration are the key levers for preventing and addressing trafficking over the long term. This reality is often ignored in salacious media depictions of trafficking and in the way even many anti-trafficking groups depict the dynamics of trafficking. Because it is necessary to create greater understanding of these solutions, the New York Anti-Trafficking Network⁵ has developed a #TalkTraffic video series,⁶ to educate audiences who have ‘had [their]

¹ A Melbin, A Jordan, and K Fels Smyth, *How Do Survivors Define Success? A new project to address an overlooked question*, The Full Frame Initiative, Greenfield, 2014.

² M Ditmore, *The Use of Raids to Fight Trafficking in Persons*, Sex Workers Project, New York, 2009.

³ M Ditmore and J Thukral, ‘Accountability and the Use of Raids to Fight Trafficking’, *Anti-Trafficking Review*, issue 1, 2012, pp. 134–148, www.antitraffickingreview.org

⁴ M Chen, *Why Do Sex-Work Diversion Programs Fail?*, *The Nation*, September 2015, <http://www.thenation.com/article/why-does-sex-work-diversion-programs-fail>, retrieved 22 March 2016.

⁵ New York Anti-Trafficking Network (NYATN), <http://nyatn.org/>

⁶ Ending Trafficking: #TalkTraffic video series, New York Anti-Trafficking Network, 2015, <http://nyatn.org/talktraffic/>

awareness raised⁷ about trafficking, and are now trying to learn more about its nuances and complexities. The videos explain that in order to truly end trafficking, and to support and respect survivors, it is absolutely crucial to respond to trafficking using a human rights approach.⁷ Within a human rights framework, the state will protect people from violence and abuse, and refrain from having state actors such as the police engage in violence and abuse. A human rights framework also includes respecting the dignity and self-determination of the person who may be a victim or survivor, and ensuring the person at risk can make his or her own decisions about how to address the situation causing harm. Almost none of the interactions law enforcement has with victims and survivors meet these requirements. For example, there is great concern in the media about trafficking into the sex trade, creating large levels of support for police to intervene, but sex workers around the world regularly experience police abuse,⁸ meaning there is little trust the police will help them.

As with all social and human rights issues, it is crucial to focus inevitably limited resources on the most promising solutions. In this context, there is no need to emphasise a strong focus on law enforcement and prosecution, as the return on such investment is generally limited. Investigations and prosecutions are expensive, and they often do not target individuals who are most culpable for bad behaviour. Criminal justice interventions cannot guarantee an outcome that actually helps a victim or survivor move forward in life, particularly as most people who experience trafficking are not interested in seeking restitution through prosecution. The reality of trafficking is that prevention is key. Anti-trafficking work therefore requires all actors to address the issues that lead to situations that put people at risk for trafficking in the first place. These long-term solutions⁹ include: safe and affordable housing; supportive and qualified legal and social services; common sense immigration policy; living wage jobs, opportunities to build financial assets, and anti-poverty policies; supporting low-wage workers organising for their rights; sexuality education, which survivors say would have helped them navigate vulnerable situations; reducing reliance on the criminal justice system and removing heavy oversight by law enforcement, which is costly and is not working as a tool of deterrence or reintegration; safe, qualified, and appropriate services and housing for LGBTQ young people, especially those at risk for homelessness and/or family rejection; promoting a global culture that values women and girls; protecting fair working conditions and labour rights; protecting human rights; and transparency and accountability in supply chains for goods and services.

The ‘time and money’ governments and NGOs spend on trafficking is spent most wisely on these efforts. While law enforcement and prosecutors can be important partners in this work, the criminal justice approach is only a small part of the path forward, and is a costly one at that.

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⁷ #TalkTraffic: Human rights approach, New York Anti-Trafficking Network, 2015, <http://nyatn.org/2015/06/29/human-rights-approach/>

⁸ C Mgbako, ‘Police Abuse of Sex Workers: A global reality, widely ignored’, *RH Reality Check*, 15 December 2011.

⁹ #TalkTraffic: Solutions to end trafficking, New York Anti-Trafficking Network, 2015, <http://nyatn.org/2015/06/29/human-rights-approach/>