DOUBLE DISCRIMINATION: EXAMINING THE MARGINALISATION OF

ROMA MIGRANT SEX WORKERS

by

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Double Discrimination: Examining the Marginalisation of Roma Migrant Sex Workers

This dissertation explores the intersectionality of discrimination of Roma migrant sex workers in the years directly following EU enlargement. It provides discussions of the most significant elements of marginalisation for Roma in Europe, both historically and currently, and analysis of vulnerability and human rights violations of migrant sex workers. By examining these two categories of marginalisation, first separately and then together, the dissertation seeks to identify and analyse intersectionality of discrimination of those who fall within both groups, Roma migrant sex workers. The dissertation then discusses how current international legal approaches to migratory sex work have been framed within concepts of international crime rather than human rights and provides a critique of the UN Trafficking Protocol. It suggests that a more effective deterrent to human rights violations of migrant sex workers, could be achieved by shifting focus to the underlying reasons for human trafficking, namely social and economic inequity. Finally, the dissertation analyses how efforts to promote social inclusion of Roma communities within the context of EU enlargement have failed to yield significant improvement for Roma people in Europe and the limited capacity of the ECHR in achieving lasting human rights promotion due to failure to implement judgments.

CHAPTER 1 – INTRODUCTION AND PROJECT DESCRIPTION

Introduction
In 2004 Slovenia, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia and Hungary all joined the European Union. In 2007 Romania and Bulgaria became the newest members of the European Union. These events preceded an increase in migrant sex workers from the new Central and Eastern European Member States to Northern and Western Europe.\(^1\) The majority of these migrant sex workers are women and a significant proportion of them are Roma.\(^2\)

In this paper I seek to examine whether there exists a significant intersectionality of discrimination of Roma migrant sex workers on account of their identity as Roma and their role as migrant sex workers.\(^3\) The marginalisation of Roma people is deeply entrenched in European history and persists today despite faltering attempts by the European Union to curtail discrimination against minority groups.\(^4\) Migrant sex workers frequently face social exclusion and violence.\(^5\) While in most European states the single act of selling sex is not a criminal offence, laws that exclude sex workers often make legal sex work impracticable.\(^6\) Significant academic attention has been devoted to Roma inclusion and to the rights of migrant sex workers. There is nonetheless a considerable void in literature that examines the intersection of these two minority groups in which Roma migrant sex workers are situated. By analysing the human rights violations commonly experienced by Roma migrant sex workers in their countries of origin and countries of destination, I hope to uncover to what extent they may experience forms of multiple discrimination or intersectionality of discrimination.

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\(^1\) TAMPEP International Foundation. ‘Sex work in Europe: A mapping of the prostitution scene in 25 European countries.’ ed. Licia Brussa(2009): pg 21

\(^2\) Ibid: pg 15 and 21

\(^3\) The term intersectionality was coined in 1989 by Crenshaw in this article: Crenshaw, Kimberle, ‘Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics’, (1989) 1989 University of Chicago Legal Forum :pg 141


I will examine the circumstances in which Roma women have either chosen to travel to Western Europe as sex workers or have been coerced or forced into such labour after the EU enlargement. I will address the extreme ethnic and gender discrimination facing many Roma women in their countries of origin which leave them with very few opportunities to provide for themselves and their families. I will argue that this lack of alternative opportunities curtails Roma women’s agency and compels many of them to enter into the sex trade and in numerous cases migrate to Western Europe. In their countries of destination migrant sex workers are faced with different and often greater risks than domestic sex workers. I will discuss the dangerous work conditions that affect migrant sex workers in particular. I will particularly address the lack of agency to determine and control working conditions, experienced by many Roma migrant sex workers, identifying how this intersects with the risk of coercion and exploitation and how the criminalisation of sex workers multiplies rather than reduces the oppressive conditions experienced by Roma women in Europe.

In dominant discourse on the protection of the rights of sex workers, it is striking that the vast majority of attention has been directed at protecting the rights of victims of human trafficking. Yet, the efforts to protect the rights of victims of trafficking, epitomised in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children also known as the Trafficking Protocol, have thus far not been successful in reducing sex trafficking.7 There is no indication that human rights violations of migrant sex workers have subsided under the current anti-trafficking policies and legislation.8 In chapter 4 I will return to some of the shortcomings of the Trafficking Protocol in effectively protecting

the rights of migrant sex workers. In this paper I emphasise that both victims of sex trafficking and migrant sex workers who have entered the sex trade free of coercion or exploitation are at risk of experiencing multiple human rights violations.

The attempts of the European Union to promote minority rights have yielded little significant improvement for the Roma population that is dispersed across Europe. The persistent marginalisation of Roma people has yet to be resolved, as the Roma continue to face discrimination and social exclusion in all of Europe. In chapter 4 I will discuss some of the EU initiatives on Roma and identify some of the limitations of these measures. The European Convention on Human Rights (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) which is signed by all member states of the Council of Europe established the European Human Rights Court in which individuals can take Member States to court. The Court provides an opportunity for individuals to seek international legal recourse if they feel that their human rights have been violated by a high contracting party to the ECHR and thus offers one route to justice for citizens of non-EU European states as well as to citizens of the enlarged European Union. However, as I will return to in chapter 4, the ECHRs capacity to significantly promote the rights of the Roma people has been questioned due to certain limitations in its ability to implement its judgements.

With this dissertation I hope to draw attention to some of the deficiencies of the current response to migratory sex work in the Europe, by analysing specifically Roma migrant sex workers. I argue for a refocusing of government initiatives to the underlying factors that push many women into sex work and the numerous human rights violations that migrant sex workers experience.

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workers experience not only at the hands of traffickers but also as a direct result of social exclusion and economic marginalisation. As members of an ethnic minority group that faces pervasive marginalisation, Roma women in Europe who enter into migratory sex work are particularly at risk of having their rights violated. With this dissertation I hope to raise awareness of the continued marginalisation of Roma people in Europe and the role of such marginalisation in increasing both the extent and the risks of Roma migrant sex work.

**Terminology**

Historically the Romani people have often been referred to as *gypsies*, a name that originates from the word *Egyptian* and is based on the incorrect assumption that they originated from Egypt. The term *gypsy* is today understood to be derogatory as well as inaccurate.\(^{11}\) The fact that *gypsy* is most often spelt with a lower case *g* indicates that to be a gypsy is a life-style choice rather than a member of an ethnic group.\(^{12}\) Despite these facts the term *gypsy* is still used frequently in the media, in literature and on occasion also by the Romani people themselves.

The *Romani* are an ethnic group commonly believed to have migrated from India about 1000 years ago and who have spread throughout the world. They have their own language with various dialects. While the exact estimates of Romani populations often differ, one prominent Romani expert, Ian Hancock, maintains that there are around 12 million people worldwide who identify themselves as Romani.\(^{13}\) The term *Roma* is used interchangeably with *Romani*, as the term *Roma* has in recent years grown to be the accepted particularly in

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\(^{11}\) Randall, Kay. "UT Feature Story -- What's in a Name?: Professor takes on roles of Romani activist and spokesperson to improve plight of his ethnic group." The University of Texas at Austin - Web Central. 
\(^{12}\) *Ibid* 
\(^{13}\) Hancock, Ian. *We Are the Romani People: Volume 28 (Interface Collection)*. (Hatfield: University of Hertfordshire Press, 2002): pg xvii
Eastern and Central Europe and in Turkey. Most NGOs and institutions in these areas use the term Roma. Rom is the singular form while Roma is the plural form. I will use the term Roma or Romani to describe persons who define themselves as such. As the focus of my paper is ethnic discrimination experienced by Roma, I also include in my analysis those persons who society assumes are Roma/Romani and who for that particular reason also face discrimination.

The term trafficking is a disputed one and there is no consensus to the precise meaning of the word. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (also referred to as the UN Trafficking Protocol) provides us with a definition that is generally accepted and which I will make use of in this dissertation. It states:

"Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs... The consent of a victim of trafficking in persons to the intended exploitation set forth [above] shall be irrelevant where any of the means set forth [above] have been used."

One limitation of the Trafficking Protocol definition is that it does not define what “the exploitation of prostitution of others or other forms of sexual exploitation” means, leaving open the question of the legality of prostitution and allowing signatory nations freedom to either criminalise or permit sex work in their respective domestic laws.  

This will be discussed further in chapter 4. In the interest of clarification, I interpret the UN Trafficking Protocol as allowing for a clear distinction to be made between consensual migratory sex work and human trafficking for the purpose of sex work. The Trafficking Protocol does explicitly state that the threat or use of force or deception is a necessary component of trafficking. Trafficking exists for a variety of motivations aside from sex work such as domestic work, marriage, industrial and agricultural work.

The term migrant sex worker will be used for persons who travel across state borders and engage in sex work in countries of transit or destination. Though my use of the term ‘migrant sex worker’ may include men as well as women, I will be focusing primarily on women as they constitute the majority of the group in question. In this paper I will discuss migrant sex workers as a group that certainly includes but is not limited to victims of sex trafficking. It is critical to distinguish between instances of sex trafficking and migrant sex work entered into free of coercion and exploitation. Research carried out in the UK indicates that only a minority of UK sex workers identify themselves as victims of trafficking, and that

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only “6 % felt that they had been deceived and forced into selling sex in circumstances within
which they felt they had no share of control of consent.”19

Intersectionality of discrimination as a sociological theory suggests that categories of
discrimination act on multiple levels and do not act independently of one and other. It was
initially introduced into feminist theory in 1989 in an article by Kimberle Crenshaw. 20 Since
its inception intersectionality theory has gained prominence within feminist theory and has
even been described as: “…the most important theoretical contribution that women’s studies,
in conjunction with related fields, has made so far.”21 In this dissertation I will use the term
intersectionality to describe how different systems of oppression are interrelated and
combined to produce a more complex and critical experience of discrimination.

Roma Rights, Feminist Approaches to Sex Work and Intersectionality

Following the collapse of communist regimes in Europe in 1989 political liberalisation
has increased international and domestic knowledge of the continued marginalisation of Roma
in Europe.22 The enlargement of the European Union in 2004 and 2007 triggered further
awareness of Roma poverty and social exclusion as the new Member States built institutions
and passed legislation to address Roma exclusion.23 The Decade of Roma Inclusion 2005-
2015, an international initiative of Romani civil society, governmental, inter-governmental
and non- governmental organisations to combat social exclusion of Roma, epitomises the

19 Mai, Nick. "Migrant Workers in the UK Sex Industry." Institute for the Study of European Transformations,
London Metropolitan University(2009): pg 32
20 Crenshaw, Kimberle, ‘Demarginalizing the intersection of race and sex: a black feminist critique of
antidiscrimination doctrine, feminist theory, and antiracist politics’, (1989) 1989 University of Chicago Legal
Forum: pg 141
21 McCall, Leslie. ‘The Complexity of Intersectionality’ (2005) 30 (no.3) Signs : pg: 1771
22 Orenstein, Mitchell A., Ringold, Dena, and Wilkens, Erika. Roma in an Expanding Europe: Breaking the
23 Ibid: pg 179
current heightened awareness to the issue of Roma rights in Europe.\textsuperscript{24} Marginalisation of Roma in Europe is receiving increasing attention also within academia as exemplified by leading Romani scholar Ian Hancock who provides essential insight into Roma culture and history from the perspective of a Romani individual.\textsuperscript{25} The international public interest organisation European Roma Rights Centre has a central role in promoting the rights of Roma individuals in Europe and has published more than 25 reports on this topic in addition to their journal \textit{Roma Rights}.\textsuperscript{26}

Feminist approaches to sex work have been heavily influenced by the discussion of how to categorise and address commercial sex work in what is most often referred to as the \textit{prostitution debate}. The principle divide in the prostitution debate is between those who define sex work as inherently exploitative and those who maintain that sex work can be a legitimate form of labour that individuals are capable of choosing at their own accord. The first group works towards complete abolition of sex work and criminalisation of those who profit from the sex trade although they often exempt the sex workers themselves from prosecution, reasoning that they are the victims of prostitution. The second group works towards regulation of the sex industry and decriminalisation of sex work as a means of guaranteeing sex workers rights.\textsuperscript{27} Feminists who advocate for abolition of sex work are commonly referred to as abolitionists or anti-prostitution activists while those who promote regulation and decriminalisation are often referred to as sex-worker activists.\textsuperscript{28}

\textsuperscript{25} Hancock, Ian. \textit{We Are the Romani People: Volume 28 (Interface Collection)}. (Hatfield: University of Hertfordshire Press, 2002)
\textsuperscript{28} Elliot, Cath and Schaffauser, Theirry. “Sex workers are not criminals: Women working in the sex trade need protection, not prosecution – which is why soliciting should be decriminalised.” \textit{The Guardian} (UK), March 8, 2010. http://www.guardian.co.uk/commentisfree/2010/mar/08/women-sex-workers-decriminalise-soliciting
The prostitution debate has greatly influenced approaches to migratory sex work and anti-trafficking measures in particular. Abolitionists maintain that migrant sex work is inherently exploitative and contrary to the will of the ‘victim’ regardless of whether the individual in question acknowledges exploitation. According to this stance, all migrant sex workers are by definition victims of trafficking. Sex workers activist dispute this claim and maintain that many women engage in migratory sex work and not all of these have been subjected to coercion or exploitation. Migratory sex work is considered by sex workers activists to be undesirable only under circumstances when individuals are forced into sex work against their will.

The various approaches legal approaches to sex work and organisation of sex work in Europe, i.e. criminalisation or legalisation, are manifestations of divergent attitudes towards sex work as exploitation, legitimate labour or an issue of public nuisance. In regards to the issues of forced sex work and human trafficking a number of sex worker activists, such as Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik, question whether the approach of the UN and governmental trafficking initiatives, which focus largely on criminal prosecution of traffickers and migration control, may exacerbate or create situations of violence and injustice towards women.

The mapping out of sex worker activities in Europe is inherently problematic due to the fact that much sex work remains hidden. Hence it is not possible to ascertain the exact number of migrant sex workers, victims of trafficking or Roma women involved in sex work.
in Europe. However, research carried out by TAMPEP, published in two reports provides the most recent extensive statistical data on migratory sex work in Europe.\textsuperscript{32} The literature provided by TAMPEP emphasises the need to distinguish between trafficking and migrant sex work and in this distinction the sex worker activist position is evident.\textsuperscript{33}

Intersectionality theory originally developed within feminist theory as a means of analysing how ethnicity and gender discrimination intersect to produce a multidimensional experience of discrimination.\textsuperscript{34} Though Crenshaw first used intersectionality to analyse multidimensional discrimination experienced by African American women, it has since been recognised as useful tool to analyse intersectionality in discrimination of other ethnic minority groups such as the Roma.\textsuperscript{35} The extensive existent material available on Roma right and migrant sex workers rights is accompanied by a significant void in material that covers both topics simultaneously.

Methodology

In terms of sources I have relied heavily on the literature mentioned above along with various other official documents, journal articles and books that address issues of Roma rights and sex workers rights. As much of the material available focuses on either Roma rights or sex workers rights I have had little access to any material that deals with a combination of the two fields. In an attempt to bridge the gap between the two categories I conducted a small


\textsuperscript{34} Crenshaw, Kimberle, ‘Demarginalizing the intersection of race and sex: a black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics’, (1989) 1989 University of Chicago Legal Forum: pg 139

scale research project myself. I sent out an e-mail questionnaire to various institutions, NGOs and individuals who work with either sex workers rights or Roma rights. The questionnaire was comprised of five core questions and a table at the end in which I asked the respondents to indicate whether certain forms of discrimination were either severe, existent or non-existent to Roma people and to migrant sex workers. I included an additional three questions on the background of the respondents in order to assess what level of experience they had in regards to Roma rights or sex workers rights or both. 36 The questionnaire was sent out to ten individuals working with either Roma rights or sex workers rights in Europe. Of those ten only three agreed to participate and responded to the questionnaire. In order to protect the anonymity of those who participated in the questionnaire and those who did not participate, and in consideration of the small number of participants, I have opted not to include a list of the names of individuals and organisations that received the questionnaire. The participants’ full responses have not been included as a standard appendix to this dissertation in the interest of preserving the anonymity of the respondents. Instead the participants’ complete responses and identities have been submitted on a separate CD to the Faculty of Law and Social Sciences at the School of Oriental and African Studies upon the submission of this dissertation. While the results of the questionnaire are by no means intended to be interpreted as representative of the opinions of all people who work with Roma rights or sex workers rights in Europe, they have provided me with a few perspectives of people who have important expertise in these areas today.

I will be analysing the situation of Roma migrant sex workers travelling from Eastern and Central Europe to Western Europe without strictly limiting my research to only one or two countries of destination or of origin. I do this because many migrant sex workers work in several countries and travel back and forth between their country of origin, their country of

36 A template of this questionnaire is provided at the end of the dissertation on pg: 49
destination and various transit countries. In order to map out the human rights violations that Roma migrant sex workers experience along the way I prefer to not limit this project to deal with only two or three states. However, the professionals that responded to my research questionnaire were all currently working in Norway or the UK, two countries in which Roma migrant sex workers do operate actively. Because of this fact, my dissertation will focus much of its findings on these two states.\(^{37}\)

I am framing my analysis of Roma migrant sex workers in terms of intersectionality theory. I examine how the ethnic and gender discriminations experienced by Roma women are amalgamated with the human rights abuses of migrant sex workers and how this particular intersection of multiple discriminations produces a unique situation of disadvantage for Roma migrant sex workers.

\[^{37}\text{Norway is not a member the EU. However, because of Norway’s membership in the EEA, the enlargement of the EU in 2004 and 2007 effectively opened the Norwegian borders to citizens of the new Central and Eastern European member states of the EU/EEA.}\]
CHAPTER 2 – BACKGROUND

A History of Persecution

The origins of the Romani people are to this day debated because much of their early history has been left undocumented. The little documentation that exists suggests that the Roma migrated from northern India in waves and that they arrived in Europe sometime between the ninth and fourteenth centuries.\(^{38}\) The theory that the Romani migrated from India developed in part from the discovery in 1760 of several similarities between the Romani language and Sanskrit.\(^{39}\)

From the time when the Roma first arrived in Europe they have been met with suspicion, fear and exclusion and since that time they have been marginalised in every European country in which they settled.\(^{40}\) A number of discriminatory policies adopted by western European nations to exclude the Romani population date back to the early sixteenth century and include banishment, extermination and so-called ‘gypsy hunts’. In Romania the Roma people were held as slaves by the state, the clergy and the nobility from the 14\(^{th}\) century until abolition in 1865.\(^{41}\) During the 17\(^{th}\) and 18\(^{th}\) century European states such as Austria and Spain implemented a number of legal orders to regulate or criminalise Roma language,

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\(^{39}\)Hancock, Ian. *We Are the Romani People: Volume 28 (Interface Collection)*. (Hatfield: University of Hertfordshire Press, 2002): pg 2
nomadism and traditional occupations and costumes. Those who did not conform risked violent penalties such as torture or even death.42

The most notorious and extensive attempt to exterminate the Roma in Europe was the Romani Holocaust also referred to as the *Porajmos*. The Nazi regime subjected the Roma people to arbitrary internment, forced labour, and genocide. The precise number of European Roma killed under the Nazi regime cannot be ascertained but historians have estimated numbers between 500,000 and 1,5 million43

During the post-war era the communist regimes of Central and Eastern Europe directed their attentions to the assimilation of the Roma population primarily by means of forced settlement. Czechoslovakia, Bulgaria, Romania and Hungary were amongst several countries in which many Roma were forcibly settled and scattered in the 1960s and 1970s.44 Communist era policies included forced sterilisation of Roma women and segregated education.45 One could argue that one of the benefits of the communist era was that communist policies provided employment for the Roma population. However, the work that was given to Roma was generally factory and agricultural work, and as unskilled labourers the Roma were given little opportunity to raise their educational levels or to advance economically.46 In some of the Northern and Western European states Roma were allowed to be nomadic but many discriminatory laws remained and the Roma population continued to face poverty and marginalization these countries during the post-war era.47

**Current Marginalisation of Roma in Europe**

42 *Ibid*: pg 9
44 Cooper, Belinda. “‘We Have No Martin Luther King’: Eastern Europe's Roma Minority.’, (2002) 18( no. 4) *World Policy Journal*: pg 70
46 Cooper, Belinda. “‘We Have No Martin Luther King’: Eastern Europe's Roma Minority.’, (2002) 18( no. 4) *World Policy Journal*: pg 70-71
47 *Ibid* pg 70-71
The Roma people have lived in Europe for more than 500 years and are considered the largest minority group in Europe today. Most of the Romani people reside in Eastern and Central Europe and between 7 and 9 million live in Europe altogether. Without an independent state of their own and with a history of violent persecution, the Roma people throughout Europe continue to experience extreme marginalisation. One researcher describes the Roma people as “the most underprivileged class across European society as a whole.”

After the fall of Communism in 1989, Roma in Central and Eastern Europe experienced declining household incomes due to factory closures and were essentially pushed out of the labour marked during the shift from a command economy to laissez-faire capitalism. Varying estimates of Roma unemployment across Europe exist, but they all reflect an extremely high level of unemployment in comparison to non-Roma who live in close proximity to Roma. Even in using the ILO-based definition of employment which produces a comparatively lower estimate of unemployment, unemployment rates of Roma in Central and Eastern Europe range from 44.5% in Romania to 73.2% in Kosovo. The unemployment rates of Romani men and women are accompanied by extremely high levels of poverty. Bulgaria and Romania, the most recent member states of the EU had poverty rates of 84.3% and 78.8% for Roma citizens in 1997.

Ethnic discrimination of Romani men and women clearly exists in the labour market in Central and Eastern Europe. Research carried out by the ERRC in Bulgaria, the Czech

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50 Thelen, Peter, ed. Roma in Europe: From Social Exclusion to Active Participation. (Skopje: Friedrich Ebert Stiftung, 2005): pg 8
Republic, Hungary, Romania and Slovakia established that: “...employment discrimination against Roma is endemic and blatant”. Yet one cannot assume that ethnic discrimination in the hiring processes is alone responsible for the high levels of Roma unemployment in Europe. One possibility is that unemployment is partly due to the fact that a large portion of the Roma population lack the skills required by employers as a result of overrepresentation of Roma within categories of un-educated or poorly-educated.

There is a clear gender dimension to Roma education gaps. A UNDP survey that compared data from eight Central and Eastern European countries, including Romania and Bulgaria, illustrates the inequality in educational levels between Roma and non-Roma, and between women and men. The UNDP survey recorded a literacy rate of 68% for Roma women and 81% for Roma men. 64% of Roma girls were enrolled in primary school, compared to 96% of girls in non-Roma communities who live in close proximity to Roma and share the same socioeconomic conditions. While highly educated Roma enjoy lower levels of unemployment it was observed that Roma unemployment rates decline less rapidly as education levels rise than for the non-Roma population. This observation suggests that the unemployment of Roma is twofold: “...that the Roma have higher levels of unemployment rates than non-Roma populations living in close proximity to Roma because they have lower education levels and that Roma have higher unemployment rates because they face discrimination in the labour market.”

As we enter into the second half of the Decade of Roma Inclusion, the Roma population of Europe continue to face extreme marginalisation. The foremost concern for

57 Ibid: pg 12
the majority of Roma is the lack of employment opportunities. The high levels of unemployment and the correlated low levels of literacy and educational background are key elements of the marginalised context of Roma in Europe today, but they are not the only elements of marginalisation. Roma also face vast discrimination in terms of access to healthcare, particularly in Central and Eastern Europe. Escalating reports of violent racist attack in the UK, Italy and several Central and Eastern European states are also of growing concern to Roma rights activists. Most recently, the eviction of Roma groups in France have illustrated how violations of housing rights are a component of the continued persecution of Roma people in Europe.

**Migrant Sex Workers: Human Rights Violations and Social Exclusion**

Migrant sex workers as a group experience different sets of risks than national sex workers. Notably migrant sex workers encounter some human rights violations in their work to a different extent than national sex workers do and vice versa. The most obvious risk for migrant sex workers is that of human trafficking, a concern that has received extensive attention in academia, politics, and in law enforcement. Comparisons between migrant and domestic sex workers in Europe, published by TAMPEP, illustrate that migrant sex workers list *trafficking* as the second most important factor influencing mobility in Europe after *economic necessity* which remains as the primary factor influencing mobility.

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trafficking, which entails coercion and necessarily an element of force or threat of force, affects men and women who are already in a vulnerable position.\(^{65}\) Research carried out in the UK suggests that vulnerability to trafficking and exploitation is determined by migrants’ socio-economic situation, their access to information about rights and protection and especially their immigration status.\(^{66}\) This vulnerability is intensified when victims of trafficking are uprooted and removed from familiar places, people or networks.\(^{67}\)

Violence is listed by TAMPEP as the leading factor of vulnerability of migrant sex workers. Notably violence carried out by sex trade organisers or intermediates is observed to be the most prevalent violence experienced by migrant sex workers. The disproportionately high levels of violence experienced by migrant sex workers, especially at the hands of sex industry organisers, correspond with the figures of numerous experiences of sex trafficking amongst migrant sex workers in Europe.\(^{68}\) However, it is pertinent to take into account that many migrant sex workers in Europe do not consider themselves victims of trafficking as is exemplified in research carried out in the UK.\(^{69}\) The research carried out by TAMPEP indicates that migrant sex workers in Europe also experience violence at the hands of non-organisers such as clients (8%) and the police (6%).\(^{70}\) One factor that may increase the risk of violence against all migrant sex workers is that the perpetrators frequently assume that migrants are less likely to report violent crimes to the police authorities.\(^{71}\) The TAMPEP report identifies the relationship between experiences of violence and the likelihood of exploitation:

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\(^{65}\) Ibid: pg 55
\(^{66}\) Mai, Nick. ‘Migrant Workers in the UK Sex Industry.’ Institute for the Study of European Transformations, London Metropolitan University: pg 5
\(^{67}\) TAMPEP International Foundation. "Sex work in Europe: A mapping of the prostitution scene in 25 European countries." Ed. Licia Brussa: pg 55
\(^{68}\) Ibid.: 55-56
\(^{69}\) Mai, Nick. ‘Migrant Workers in the UK Sex Industry.’ Institute for the Study of European Transformations, London Metropolitan University(2009) : pg 32
\(^{71}\) Ibid: pg 39
“...the presence of violence from organisers as a factor shows that migrant sex workers are more likely to be under the threat of coercion, extortion and other violent forms of control over their work situation. Undocumented migrants in particular are often targets of violence on many levels.” 72

This statement from also underscores the correlation between experiences of violence and lack of control over one’s own work situation, which in turn leads to increased dependency on a third party or organiser.

Migrant sex workers have significantly lower levels of control over working conditions than national sex workers. TAMPEP’s report estimates that 60% of national sex workers exercise control over their working conditions, while only 40% of migrants have control over their working conditions. One significant aspect of the control over working conditions is the control over the sex workers income. According to TAMPEP less than half of domestic sex workers share their income with sex industry organisers, while almost 60% of migrant sex workers do. 73 The lack of control over one’s own working conditions and income that disproportionately affects migrant sex workers is indicative of exceedingly high levels of dependency. Dependency on a third party further restricts a sex workers agency and ability to negotiate with clients or practice safer sex. 74

The risk of HIV infection to sex workers is undeniably associated with the extent to which sex workers are able to exercise control over their work conditions and are thus able to negotiate terms of safer sex. 75 In comparison to the general public migrant sex workers reportedly use condoms less frequently than domestic sex workers do. 76 The practice of

73 Ibid: pg 45
74 Ibid: pg 44
75 Ibid: pg 35
76 Ibid: pg 43
unsafe sex is deeply impacted by the fact that unsafe sex remains in demand and the influence of clients, intermediaries and sex industry organisers in this respect. For some migrant sex workers language barriers may also restrict their ability to negotiate the use of condoms with their clients. The established high vulnerability of migrant sex workers regarding use of condoms has also been connected to harassment by law enforcement agents who in some countries confiscate condoms possessed by sex workers as evidence against them or simply confiscate the condoms from street-based sex workers.

Police harassment of sex workers associated with the use of condoms or otherwise, varies from country to country and is strongly dependent on the legal status of sex work in the country in question. For example, in Sweden and Norway the act of selling sex is not illegal, however the act of purchasing sex is a criminal offense. Kulick, in his evaluation of the negative effects of criminalising sex clients in Sweden, notes that after criminalisation police harassment of sex workers increased. Kulick specifically mentions that a person found to be selling sex is subjected to having his or her belongings searched and may be frisked. If the police find evidence of sex work, such as condoms, these may be confiscated and used against clients as evidence in prosecution. According to Kulick, the practice of confiscating condoms as evidence provides a clear incentive for Swedish sex workers to not carry or use condoms.

The issue of criminalisation of sex work is a contentious topic and is intrinsically tied to the prostitution debate. In Europe legal approaches to sex work vary greatly. In Lithuania and Romania sex work is completely prohibited, while in the Netherlands sex work is considered a legitimate occupation. In the majority of European states the act of selling sex

78 Ibid: pg 43
80 TAMPEP International Foundation: ‘SEX WORK | MIGRATION | HEALTH: A report on the intersections of legislations and policies regarding sex work, migration and health in Europe.’
is not a criminal offense on its own, but companion activities often are. These sets of laws that prohibit companion activities to sex work often exclude sex workers and make legal prostitution impracticable. For instance, in the UK loitering, kerb crawling and soliciting for the purpose of prostitution in a public place are prohibited. Two or more sex workers may not work from the same premise as this is considered to amount to brothel keeping. The combination of these laws makes legal prostitution virtually impossible and seriously limits sex workers capacity to perform their work as safely as possible.

Legal approaches towards sex work in Europe complement the dominant discourse on sex work which is framed within the contexts of morality, violence, criminality and human trafficking. Human rights, agency and self-regulation are seldom prioritised in the legal approached to sex work. The criminalisation of sex work and the criminalisation of companion activities to sex work may contribute significantly to the social exclusion of migrant sex workers and domestic sex workers alike. Laws that aim to decrease the visibility of sex workers and to directly exclude sex workers from public places lead to further stigmatisation and social exclusion of sex workers. Such laws also have the effect of pushing the sex trade further underground. Laws that criminalise the activities of sex workers obstruct sex workers capacity to seek out police protection in instances of rights violations. Social exclusion is, according to TAMPEP, the third most important factor that leads to vulnerability amongst migrant sex workers in Europe. The two opposing sides of the prostitution/sex work debate disagree on many points of how sex work should be approached legally, in particular on how and if clients and organisers of the sex trade should be categorised or prosecuted. It appears that in one respect, members of the two divergent factions are finding

81 Ibid: pg 26
82 Ibid: pg 25
83 Ibid: pg 14
84 Ibid: pg 53
common ground in that some feminist activists from both sides of the debate agree that
criminalisation of sex workers themselves, places sex workers at greater risk of human rights
violations.86

**Roma Migrant Sex Workers in Europe**

Roma women are overrepresented amongst sex workers in Europe. While an exact
figure of how many Roma women engage in migrant sex work is impossible to ascertain,
evidence indicates that a disproportionate number of migrant sex workers in Europe identify
themselves as Roma. A report published by TAMPEP in 2008 confirms that sex workers from
the new EU Member States (Romania, Bulgaria, Hungary and Poland) along with Eastern
European non EU-states (Russia, Ukraine, Belarus and Moldova) are in the majority in
Europe and are well represented in each of the 25 countries in which TAMPEP has conducted
research.87 The report further states that the majority of sex workers in Eastern and Central
Europe are of minority background and the largest minority is the Roma.88

TAMPEP’s findings shows that among the over 60 states most often named as
countries of origin of migrant sex workers in Europe, Romania places as number one while
Bulgaria places as number three. The accession of Romania and Bulgaria into the EU in 2007
has triggered a notable increase in migrant sex workers leaving these two countries. Migration
from Central Europe has increased from 7% in 2005 to 26% in 2008.89 The TAMPEP report
establishes that: “a significant proportion of migrant sex workers from Romania and Bulgaria
are Roma. This has become more visible since the 2007 accession of Romania and Bulgaria to

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86 Elliot, Cath and Schaffauser, Theirry. “Sex workers are not criminals: Women working in the sex trade need
protection, not prosecution – which is why soliciting should be decriminalised.” *The Guardian* (UK), March 8,
87 TAMPEP International Foundation. ‘Sex work in Europe: A mapping of the prostitution scene in 25 European
88 *Ibid:* pg 60
89 *Ibid:* pg 19
the EU.⁹⁰ Taking into account that the majority of European migrant sex workers are from Eastern and Central Europe and most of these women are of minority background, Roma being the largest minority in question, one can only conclude that Roma women are disproportionately represented amongst migrant sex workers in Europe. Considering that a significant proportion of migrant sex workers from Romania and Bulgaria are Roma, and that these two countries are amongst the top three countries of origin of migrant sex workers in Europe, one can further ascertain that a substantial number of Roma women from these Romania and Bulgaria have engaged in migrant sex work following the EU enlargement.

This information corresponds with some of the feedback I received from respondents to my questionnaire. In question 3 I asked if the participants had observed any changes among Roma sex workers since EU enlargement. One respondent stated that first Roma sex workers came to Norway in 2007 and were primarily from Bulgaria. During the last year there has been observed a shift within the Norwegian sex trade and the majority of Roma sex migrant sex workers are now Romanian women who often travel with a larger group of Romanian men and women involved in begging and street busking. ⁹¹

⁹¹ Respondent nr. 2 in response to question 3 of the questionnaire.
CHAPTER 3 – INTERSECTIONALITY OF DISCRIMINATION

Roma Migrant Sex Workers: The Intersection of Discrimination

Intersectionality theory has been recognized as a valuable framework for analysing discrimination against Roma people, in particular Roma women. Consistent with the theory of intersectionality, Roma women experience discrimination differently than Roma men, and non-Roma women. One apparent example of intersectional discrimination experienced by Roma women is the coercive sterilisation campaigns that reached a height during the post-war era in countries such as Sweden, Hungary and the former Czechoslovakia. In fact, reports of forced sterilisation have emerged also after the fall of communism in Hungary, Slovakia and the Czech Republic, the most recent one being in 2008. As posited in the chapter 2 both categories of Roma people and migrant sex workers are at extremely high risk of social exclusion and human rights abuse. At the intersection of these two categories, Roma migrant sex workers are especially likely to have their human rights violated and to be denied the agency to control and manage their lives and work.

In this section I will analyse how the socio-economic context of the Roma people leave many Roma women little opportunity to provide for themselves and their families outside of the sex trade. I will analyse the correlation between extreme poverty experienced by Roma women and the risk of falling victim to sex trafficking. Upon arriving in a country of destination, as a migrant sex worker or as a victim of trafficking, Roma women may have difficulty recognising their own rights and seeking assistance from authorities to protect those rights, placing them at further risk of human rights violations. When the vulnerability to human rights abuses associated with migrant sex work intersects with the low social and

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94 Ibid: pg 53
economic circumstances experienced Roma women this intersection has the potential to produce a situation of extreme vulnerability of Roma migrant sex workers to social exclusion and rights abuse.

As discussed in Chapter 2, Roma women are clearly overrepresented amongst migrant sex workers in Europe. Aside from the EU enlargement in 2004 and 2007 which enabled new EU citizens, many of which are Roma, to migrate more easily across Europe, there are significant additional factors as to why so many Roma women become migrant sex workers. Most prominent are socio-economic factors and the limitation of opportunities for Roma men and women to provide for themselves and their families in their countries of origin due to rampant unemployment amongst Roma communities in Central and Eastern Europe. In response to the question of whether Roma women were at risk of becoming sex-workers, one respondent to the questionnaire replied the following:

“As Romani families become increasingly impoverished en masse (despite the rare economic successes of a few individual Roma), Romani women and children become more and more vulnerable as generational impoverishment sets in – no job, no food, no secure housing, leads to vulnerability which may lead to sex work in order to survive.”

Faced with large-scale unemployment, Roma women who in many cases have not had the opportunity to complete their education often are left with few viable alternatives other than to enter into the sex trade in order to provide for themselves. A second respondent to the questionnaire confirms in even stronger terms the correlation between socio-economic circumstances and entrance into sex work:

95 Respondent nr.3 in response to question nr.1 of the questionnaire
“Because of the susceptible economic and social situation that Roma women in Europe often find themselves in, I am convinced that many Roma women have no or very few other options for their physical survival than to sell sexual services.”

Most migrant sex workers in Europe list economic necessity as the primary reason for entering into the sex industry regardless of whether they identify as Roma or not. The particular circumstances of the Roma people, who have been described not only as the largest minority but also as the most vulnerable minority in Europe, must be considered as an indicator of their likeliness to enter into sex work.

The socio-economic situation of Roma in Europe place Roma women at high risk of not only entering into the sex trade, but also of experiencing exploitation and coercion at the hands of human traffickers. The correlation between the vulnerability of low social and economic standing and the risk of human trafficking is recognised in academia. This connection has been observed also by individuals who work with sex workers rights. One respondent to the questionnaire establishes that there exist “a definite link between the vulnerability of one’s economic and social origin and the likelihood of being a victim of human trafficking.”

In the 2009 annual report of the Pro Centre, a Norwegian resource centre on all matters related to prostitution, an observation was made that there appeared to be fewer Romanian and Bulgarian women than the year before. However, the Pro Centre noted that the Romanian and Bulgarian sex workers seemed to be strictly controlled by sex industry

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96 Respondent nr.1 in response to question nr.1 of the questionnaire
100 Respondent nr 1 in response to question nr 2 of the questionnaire
organisers and were observed to be working a lot. The Pro Centre’s observation of the higher level of control exercised over Romanian and Bulgarian sex workers by third parties in Oslo is pertinent because, as discussed in chapter 2, control over working conditions is intrinsically associated with vulnerability to rights violations. This may be a further indication that Romanian and Bulgarian sex workers, who make up the majority of Roma migrant sex workers in Oslo, are at particular risk of coercion and exploitation.

The socio-economic factors that push Roma women towards work in the sex industry can influence Roma migrant sex workers’ capacity to exercise their rights upon arrival in a country of destination. One respondent to the questionnaire identified three factors that indicate a migrant sex worker’s capacity to protect her rights in a receiving country along with economic and social status: Literacy, language skills and age. The respondent further comments that these three factors coupled with economic and social status are stronger influences than ethnic origin in indicating vulnerability to rights violations. The language and literacy factors mentioned by the respondent suggest that the capacity to protect ones rights is intrinsically tied to one’s ability to access information and interpret it as well as communicate ones rights in a social network or with authorities and social workers. The respondent who identified the importance of these three factors also commented that, amongst street-based sex workers in Oslo, a significant portion of the most at-risk migrant sex workers are Roma. Among these she states that many: “…can be described as young illiterate women with poor or no English skills.

Roma women as a group are certainly disadvantaged in terms socio-economic circumstances, as has been discussed at length in Chapter 2. In regards to language, it has been established that Roma women and girls have lower levels of literacy in comparison to

102 Respondent nr.1 in response to question 2 of the questionnaire
103 Respondent nr.1 in response to question 2 of the questionnaire
Roma men and to non-Roma women and girls. Lower levels of literacy coupled with lower levels of education will naturally present barriers for Roma women in efforts to develop foreign language skills. I was unable to find any overarching statistics of the average age in which Roma women enter into migrant sex work, perhaps because as many other aspects of the sex industry these numbers are largely hidden. A second respondent did remark that she met with underage Roma sex workers through her work in Hungary.\textsuperscript{104} Nadheim, a centre that provides assistance to sex workers in Oslo indicated in their annual report that the majority of Romanian sex workers that they have been in contact with are very young. A number of the Romanian sex workers in contact with Nadheim are Roma.\textsuperscript{105} Nadheim’s annual report also mentions that many of the Bulgarian sex workers that they are in contact with, the majority of which are Roma, entered into sex work at a young age.\textsuperscript{106} The observations made by one centre that provides assistance to sex workers in Oslo and by two individuals are clearly not sufficient to reach any overarching conclusions about the extent of very young Roma women involved in migrant sex work in Europe. The observations merely reflect the fact that some Roma migrant sex workers appear to be entering into sex work at a very young age and this has been noted by professionals who work with them.

The responses from the questionnaire along with the research findings of TAMPEP indicate that Roma women are particularly likely to enter into migratory sex work due to the low social and economic status of many Roma women. This likelihood is perceptible in the estimates discussed in Chapter 2 of the overrepresentation of Roma migrant sex workers in Europe. Furthermore, the same social and economic factors that may compel Roma women to choose to engage in migrant sex work increase general vulnerability to exploitation and the risk of sex trafficking. Overall low levels of literacy and language skills amongst Roma

\textsuperscript{104} Respondent nr. 3 in response to question 2 of the questionnaire
\textsuperscript{106} Ibid: pg 8
women in Europe may further deter Roma migrant sex workers from being able to interpret and assert their rights in countries of destination. A small number of reports of particularly young Roma women working as migrant sex workers do not provide sufficient evidence to establish that the average age of entering into sex work is much lower for Roma women than for non-Roma women. However, it does confirm that some Roma women are entering into the sex industry at a notably young age and in these instances underscores the correlation between youth and vulnerability amongst sex workers.

The sum of evidence presented by respondents to the questionnaire, the annual reports of two Oslo-based centres that provide support for sex workers and data from the TAMPEP reports supports the premise that the low socio-economic status of Roma women along with factors such as low literacy and language skills greatly contribute to the likelihood of Roma women entering into sex work and to the risk of human rights violations such as trafficking. The same sources do not provide conclusive evidence that Roma women encounter significantly greater ethnic discrimination than other migrant sex workers in the countries of destination. It appears that the intersection of discrimination in the case of Roma migrant sex workers does occur on one level in recipient countries in terms of the intersection between the extreme marginalisation of Roma women and the social exclusion of migrant sex workers to create a substantially greater risk of exploitation and trafficking. The marginalisation of Roma women is certainly a consequence of ethnic discrimination in countries of origin as has been ascertained in chapter 2. Yet the existence of significant ethnic discrimination of Roma migrant sex workers in recipient countries cannot be established based on the sources mentioned above. While ethnic discrimination of Roma exists in all parts of Europe including Western and Northern Europe, I have not found any conclusive evidence that this significantly impacts Roma migrant sex workers any more than it does non-sex worker Roma.
CHAPTER 4 - PROTECTING THE RIGHTS OF ROMA MIGRANT SEX WORKERS

Considering the void in academia in available data that addresses the overlapping categories of discrimination experienced by Roma migrant sex workers, it is perhaps not surprising that there are no legal or institutional instrument designed to specifically protect the rights of Roma migrant sex workers. Instead the initiatives and legal instruments that may be suitable for protecting the rights of Roma migrant sex workers are generally directed at either protecting the rights of sex workers or at promoting Roma inclusion. In this chapter I will briefly discuss how the principal international legal approach to migrant sex work, namely the UN Trafficking Protocol, is insufficient in fully protecting the human rights of migrant sex workers. I will then outline some of the legal and institutional approaches that aim to promote social inclusion and protect the rights of Roma people within the EU and within the Council of Europe and the foremost limitations of these approaches.

The UN Trafficking Protocol: Protecting the Rights of Victims of Sex Trafficking

The rights of migrant sex workers in Europe are most often conflated with issues of human trafficking in international law and governance approaches. The risk of framing the discourse of migrant sex workers rights in terms of issues of human trafficking is that it may result in the human rights centred approach taking a backseat to the more victim oriented approach. As affirmed in one of the TAMPEP reports: “Sex work in Europe is predominantly discussed within the contexts of morality, violence, criminality and trafficking but seldom within the frame of human rights, autonomy or self-regulation.” Keeping this in mind, considering the rights of Roma migrant sex workers the issue of trafficking must be addressed due to the disproportionate Roma vulnerability to trafficking that intersectionality of

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107 Outshoorn, Joyce. ‘The Political Debates on Prostitution and Trafficking of Women’ (Spring 2005) 12 (1) Social Politics: pg 141
marginalising factors produces. The foremost international instrument that deals with migrant
sex work is found in the UN Trafficking Protocol which I critique in this section.

The UN Trafficking Protocol provides the first internationally binding instrument to
explicitly and systematically address traffic in women and is used as the base of national
legislation on many countries. The protocol has been referred to as: “the most important
international declaration of the world’s commitment to address trafficking in persons of either
gender for the purposes of labor or sexual exploitation...” In addition to managing human
trafficking as an issue of international law, the Trafficking Protocol has been successful in
terms of providing a comprehensive international definition of human trafficking. Despite
the commendable success of the Trafficking Protocol on raising human trafficking on the
international agenda and providing a widely accepted definition of the term, a number of
weaknesses have been identified in connection with the protocol.

The widely accepted definition provided by the UN Trafficking Protocol has on
occasion been described as a compromise between abolitionist and sex work activists in the
sense that it allows states to focus only on forced prostitution and potentially deal with adult
consensual sex work in other manners than through abolition without explicitly construing
consensual sex work as a legitimate form of work. It does so by leaving open the question
of whether or not sex work itself falls within the category of “...other forms of sexual
exploitation...” The vagueness of the terms used, while possibly an intentional means of

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109 Dewey, Susan. *Hollow Bodies: Institutional Responses to Sex Trafficking in Armenia, Bosnia, and India.* (VA, USA: Kumarian Press, 2008): pg 37
110 Ibid: pg 37
112 Outshoorn, Joyce. ‘The Political Debates on Prostitution and Trafficking of Women’ (Spring 2005) 12 (1) *Social Politics*: pg 141
satisfying both factions of the prostitution debate, inhibits the effectiveness of the UN Trafficking Protocol as a legal tool. Sanghera identifies a number of assumptions that inform the mainstream trafficking discourse, one of which is the assumption of coercion in all cases of sex work. While the prostitution debate clearly demonstrates that the trafficking discourse is influenced by both sex worker activists and abolitionists, the vagueness of UN Trafficking Protocol allows Member States to interpret the protocol in different directions according to divergent stances on the prostitution debate and this is reflected in the numerous legal approached to migrant sex work in Europe.

The principle weakness of the UN Trafficking is that it frames the issue of trafficking in terms of international crime, rather than it terms of vulnerability caused by social and economic inequity. In doing so the protocol essentially neglects to address the most important cause of human trafficking. The UN Trafficking Protocol is but one of three protocols that supplement the United Nations International Convention Against Transnational Organized Crime. The other two protocols deal with the issues of smuggling of migrants and trafficking in firearms. The anti-trafficking agenda carried out by the UN through these instruments is essentially part of an effort to restrict the movement of persons, weapons and drugs that circumvent legal borders. The Trafficking Protocol and its associated global governance approached focuses primarily on crime, punishment and migration control.

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117 Ibid
119 Kempadoo, Kamala. 'Introduction: From Moral Panic to Global Justice: Changing Perspectives on Trafficking' in Kamala Kempadoo, Jyoti Sanghera and Bandana Pattanaik ed Trafficking And Prostitution...
focus on trafficking within the framework of international crime has not had the effect of reducing human rights violations of trafficked migrant sex workers. Its failure to address the root causes of human trafficking has in turn lead to its failure to significantly reducing trafficking on a global scale. An effective approach to reducing human rights abuses of migrant sex workers and victims of trafficking must spring from an effort to address social and economic inequity, the root causes of human trafficking.

**Combating Minority Exclusion: The EU Roma Initiatives and European Human Rights Protection**

In response to the declining social and economic status of Roma in Europe and increasingly frequent reports of racially motivated attacks on Roma, minority rights discourses emerged along with a budding Romani political movement in the years directly following the fall of the Iron Curtain. Within the European Union, Roma citizens are entitled to protection under the Charter of Fundamental Rights of the European Union along with all other citizens of the EU. This Charter became legally binding when the Treaty of Lisbon entered into force on 1 Dec. 2009. During the 1990’s institutional responses to the Roma issue in Europe developed within the EU’s involvement in minority rights and in correlation to the EU enlargement process. In 1993, the European Council, through what is

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Ibid: xvi


known as the *Copenhagen Criteria*, determined the standards that candidate countries must meet in order to become members of the European Union and included within this criteria “stability of institutions guaranteeing democracy, the rule of law, human rights and respect for minorities.” In order to aid the applicant countries in meeting the requirements of the Copenhagen Criteria the PHARE programme was developed as an instrument of financial assistance funded by the European Union. Through PHARE (now IPA) more than €100 million was spent between 1998 and 2008 in efforts to improve education, infrastructure and other key challenges for Roma communities.

The Copenhagen Criteria was an important step towards elevating minority rights on the political agenda in Europe and the PHARE programme played a significant role in targeting Roma rights during the accession process. Yet, despite the continual EU financial aid to candidate countries aiming towards improving social inclusion of Roma communities, the vast majority of Roma in new Member States experience greater marginalisation today than prior to the Copenhagen Criteria. Discrimination and social exclusion of Roma remains rampant throughout Europe also in older Member States of the European Union. One of the obvious shortcomings of the Copenhagen Criteria in addressing social exclusion of Roma in all of Europe was that it only demanded ‘...human rights and respect for minorities...’ in the new Member States of the European Union. The Copenhagen Criteria, while drawing attention to the issue of minority marginalisation, has not been deemed successful in curbing

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127 *Ibid.* pg 23

social exclusion of Roma in Europe. None of the applicants in question were ultimately refused membership into the European Union despite the fact that no evidence indicated an improvement in the situation of their Roma citizens.\textsuperscript{129}

The PHARE projects provided valuable financial aid towards Roma inclusion however substantial weaknesses in the implementation of PHARE diminished the effect it has on overall marginalisation. In 2004 assessment of the PHARE programmes revealed that one third of all programmes had been evaluated as unsatisfactory.\textsuperscript{130} According to Will Guy, one criticism of PHARE that may explain its limited effectiveness is that “its aims were too ambitious and the time allowed to achieve them too short.”\textsuperscript{131} Furthermore the unsystematic targeting of PHARE funding did not successfully address the areas in which Roma communities are most affected. Less than 10% of PHARE funding was directed towards projects that targeted unemployment in spite of the fact that the need to find work has been identified as the foremost concern for Roma. While the Copenhagen Criteria were most likely taken seriously by candidate governments, the end result was primarily formal compliance with legislative changes, while the core issues of social exclusion were left unresolved.\textsuperscript{132}

At the European Council in Lisbon in 2000 the Lisbon Strategy was adopted as a development plan that aimed to improve EU economic potential and reduce social inequality in Europe.\textsuperscript{133} The Lisbon Strategy unlike the PHARE programmes specifically targeted

\begin{footnotes}
\footnotetext{130}{Ibid: pg 30-31}
\end{footnotes}
unemployment and also included the Roma populations of older member states of the European Union rather than focusing on only the new member states. These two factors were promising indicators that the Lisbon Strategy had potential to promote Roma inclusion in the European Union despite the fact that Roma minority is not explicitly mentioned in the Lisbon Strategy as a marginalised group. However, following the EU accession of ten new member states from Eastern and Central Europe in 2004 the effectiveness of the Lisbon Strategy in increasing social inclusion was called into question. One report stated in its executive summary that:

“External events since 2000 have not helped achieving the objectives but the European Union and its Member States have clearly themselves contributed to slow progress by failing to act on much of the Lisbon strategy with sufficient urgency. This disappointing delivery is due to an overloaded agenda, poor coordination and conflicting priorities.”

In terms of social exclusion of Roma in Europe, there is unfortunately no evidence that key areas such as employment, housing, education and health have improved since the adoption of the Lisbon Strategy.

Beyond the European Union, the Council of Europe instigated in 1995 measures to be taken to ensure the rights of minorities in Europe in its Framework Convention for the Protection of National Minorities which required signatory governments to:

“...undertake to adopt, where necessary, adequate measures in order to promote, in all of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority.”

While the Framework Convention for the Protection of National minorities called for a more explicit defence of minority rights than the Copenhagen Criteria did, it did not have any binding power on European states and was ignored by several existing Member States. More significantly the Convention for the Protection of Human Rights and Fundamental Freedoms, signed by all Member States of the Council of Europe, established the European Court of Human Rights which was permanently instituted in 1998.

The European Court of Human Rights offers one route to legal recourse for Europeans who feel that their rights have been violated within and outside the European Union. A number of cases of Roma rights violations have successfully been brought before the ECHR, underscoring the potential of this instrument in protecting human rights in Europe. Cases that have been brought before the ECHR by Roma applicants include cases of police brutality, segregation of education and violation of housing rights. However, as is discussed in detail in the first issue of the Roma Rights Journal in 2010, the successes in achieving judgements

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against Roma rights violations have often been followed by inadequate implementation of judgements.\textsuperscript{142}

In Bulgaria 159 judgements, which constitute almost half of all the judgements against Bulgaria, remain under supervision of the Committee of Ministers, meaning that they have yet to be fully implemented.\textsuperscript{143} A number of the Bulgarian judgements in question involve serious and extremely violent crimes against Roma including police violence resulting in death such as in the case of \textit{Velikova v. Bulgaria}.\textsuperscript{144} In the Bulgarian cases, the State has paid monetary compensation which amount to symbolic awards, yet legislative reform has not yet been adopted to prevent the repetition of human rights abuses.\textsuperscript{145} The State has failed to conduct investigation into the circumstances of police violence and, in numerous police violence cases, refused to properly prosecute perpetrators.\textsuperscript{146} The Bulgaria judgements provide but one example of many of the failure of the ECHR to fully implement its judgements. The example of Bulgaria underscores some of the overarching limitations of the ECHR in implementing its judgments. The payment of monetary compensation is most often a symbolic gesture and has on its own no deterrent effect.\textsuperscript{147} Integral restitution is one of the guiding principles in the execution of the ECHR and includes measures of restoration, legislative reform and changes to the judiciary when necessary in the prevention of repetition of human rights violations.\textsuperscript{148} Yet when the ECHR on occasion includes such structural alterations in its judgements as a means of reducing the likelihood that violations will recur, it often does so in very general terms and the State is able to ignore and avoid full judgment.

\textsuperscript{142}Ibid: pg 5
\textsuperscript{143}Kanev, Krassimir, ‘Non-Execution of European Court Judgments Involving Romani victims in Bulgari’ (2001) 1 \textit{Roma Rights, Journal of the European Rights Centre}: pg: 17
\textsuperscript{144}\textit{Velikova v. Bulgaria}, 41488/98, ECHR, 2000 VI
\textsuperscript{146}Ibid: 19
\textsuperscript{147}Kushen, Robert. ‘Implementing Judgments: Making Court Victories Stick’ (2001) 1 \textit{Roma Rights, Journal of European Roma Rights Centre}: pg 7
\textsuperscript{148}Kanev, Krassimir, ‘Non-Execution of European Court Judgments Involving Romani victims in Bulgari’ (2001) 1 \textit{Roma Rights, Journal of the European Rights Centre}: pg: 17
Thus the circumstances in which the human rights violation remains unaltered and the State may continue its pattern of social exclusion of minorities such as the Roma in the form of human rights abuse. In order for the ECHR to reach its full potential in protecting minority rights in Europe structural alterations must be made to ensure that full implementation follows all of its judgements.

CONCLUSION

In the years since the EU enlargement, reports of overrepresentation of Roma women amongst sex workers in Europe raise concerns over whether the currently vulnerable situation of Roma migrant sex workers represents yet another extension of a long history of Roma marginalisation in Europe. At the intersection between two groups, both of which are subjected to high levels of social exclusion and human rights abuse, Roma migrant sex workers find themselves in a position of extreme vulnerability to exploitation. The fact that the majority of migrant sex workers are women adds a gender factor to the intersectional discrimination of Roma migrant sex workers. Not only are Roma women found to be more likely to enter into migrant sex work than non-Roma women, but upon entrance into the sex industry they are considered to be amongst the most at-risk sex workers due to their low socio-economic status and low levels of education and literacy. The vulnerability concerns over Roma migrant sex work have been picked up by institutions that follow migratory sex work in Europe closely. Reports from institutions and organisations that work with migrant sex workers rights indicate that minorities in general and Roma in particular are amongst the most at-risk migrant sex workers in Europe.\(^{150}\)

The full extent and significance of Roma migratory sex work after the EU enlargement has yet to be comprehensively measured and examined. This is most perceptible in the apparent lack of responsiveness within academic literature to the prevalence of Roma migratory sex work. The visibility of Roma women in migratory sex work increased primarily as a result of the accession of new Member States from Central and Eastern Europe to the European Union in 2004 and 2007. The 2007 accession of Bulgaria and Romania into the EU marked this shift most clearly.\(^{151}\) These events are still relatively recent and the sharp rise in Roma migrant sex workers has only been recognised, by groups and institutions that provide


\(^{151}\) Ibid
assistance to migrant sex workers and that monitor shifts in their activities, in most recent years. This may be one reason why thus far there has been little academic attention devoted to the issue of Roma migratory sex work. The excessive vulnerability of Roma migrant sex workers and the overrepresentation of Roma women in migratory sex work require far greater awareness within the academic community. The full extent of intersectional discrimination of Roma migrant sex workers cannot be uncovered until a more comprehensive collection, and organisation, of data specific to Roma within sex work is carried out within academia.

Until a more comprehensive collection of data of Roma migratory sex work is compiled, potential remedies to reduce vulnerability cannot be accurately identified and developed. Thus far, the evidence indicates that vulnerability of Roma migrant sex workers can primarily be attributed to marginalisation of Roma people as a group in Europe and to the social exclusion and human rights abuses of migrant sex workers. Both international and national legal approaches to the issues of migrant sex workers and human trafficking would most likely be more successful, in terms of deterrence, if they dealt better with the social and economic factors that lead persons into sex work and that aggravate vulnerability within sex work. In the specific case of Roma migrant sex workers these social and economic factors are in dire need of attention and improvement. The failures of previous and current EU initiatives to address Roma marginalisation in Europe provide some valuable lessons in how to better achieve social inclusion of Roma communities in the future. For such inclusion to be achieved, Roma rights must be addressed with urgency, sincere dedication and improved coordination within the European Union and with the ECHR.

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Dear ...............,

My name is Sarah Lauglo and I am a student currently working on my master’s dissertation in Human Rights Law at the School of Oriental and African Studies in London. I am contacting you in hope that you will share some of your expertise on the subject which I will be researching for my dissertation.

The working title is thus far: Double Discrimination: Examining the Marginalisation of Roma Migrant Sex Workers. In this paper I hope to find whether or not there exists a significant intersectionality of discrimination, or double discrimination of Roma and of migrant sex workers.

Since the enlargement of the EU in 2004 and 2007 to include most of Eastern Europe, migration to the west has been opened up for those seeking economic or social migration. In my research paper I hope to uncover whether, since the European enlargement, Roma women are more likely to become migrant sex workers and if so, for which reasons. I further seek to find out whether Roma migrant sex workers are at greater risk of encountering discrimination and human rights violations than other migrant sex workers in Europe. I hope to shed light on a topic that thus far has received little academic attention and that perhaps demands a new perspective in order to improve the working conditions and lives of those Roma women who travel across Europe in the context of sex work.

In my paper I will use the term ‘Roma’ to describe any person who defines herself or himself as Roma. I also include those persons who society assumes are Roma and who therefore are also faced with discrimination.

The term ‘migrant sex worker’ will be used for persons who travel across state borders in order to sell sex. Though my use of the term ‘migrant sex worker’ may include men as well as women, I will be focusing primarily on women as they constitute the majority of the group in question.

For the purpose of my research I am sending this questionnaire to various organisations, individuals and institutions that have worked with either Roma rights or the rights of sex workers. The information you provide will supplement the thorough literature review that will form the foundation of my dissertation.

The information gathered will be used exclusively for my dissertation which I will be happy to make available to you upon its submission to the School of Oriental and African Studies on the 15th of September 2010. Any personal information given will be anonymised when reported in the dissertation.

I would be very grateful if you could find time to fill out the questionnaire and return it to me by e-mail. Please open the document as a Word file, and write your response in italics below each question asked. Once it is completed please send it to the following e-mail address: 255505@soas.ac.uk. I hope to receive all the questionnaire responses by 15th of August 2010.

If you have any questions regarding my work or the manner in which I intend to use your responses I would be happy to answer them.

Best regards,

Sarah Lauglo
Questionnaire

Background Information

In what way, if any, have you acquired knowledge about Roma?

In what way, if any, have you acquired knowledge about migrant sex-workers?

In which country or context have you acquired any such knowledge?

Roma Migrant Sex Workers

1) Have you found Roma women to be at risk of becoming sex-workers?
   Why or why not?

2) Have you found that Roma migrant sex-workers are more likely than other migrant sex-workers to having their rights violated?
   If so, in what way are they more likely to have their rights violated?
   If so, which rights are most often violated?
   In countries of origin?
   In receiving countries?

3) Have you observed any changes among Roma sex workers since 2004 and 2007? If so, please elaborate.
   (The dates above indicate the time of EU enlargement. In 2004, Slovenia, Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovak Republic, and Hungary all joined the EU. In 2007 Romania and Bulgaria also joined. )

4) Which state policies, if any, do you believe hinders the protection of rights of Roma migrant sex-workers

5) Which state policies, if any, do you believe have the potential to promote the protection of the rights of Roma migrant sex-workers
6) In the table below please indicate to the best of your knowledge whether you believe that the said discrimination or human rights abuse is S) severe E) existent or N) non-existent for either Roma in general or for migrant sex-workers.

If you feel especially strongly about any of the listed areas of discrimination or human rights abuse, please feel free to elaborate your thoughts below.

<table>
<thead>
<tr>
<th></th>
<th>Roma people</th>
<th>Migrant sex-workers</th>
</tr>
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<tbody>
<tr>
<td>Lack of education opportunities in countries of origin</td>
<td></td>
<td></td>
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<tr>
<td>Lack of employment opportunities (outside the sex trade) in countries of origin</td>
<td></td>
<td></td>
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<tr>
<td>Lack of social network</td>
<td></td>
<td></td>
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<tr>
<td>Lack of access to healthcare</td>
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<tr>
<td>Lack of access to information on rights</td>
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<tr>
<td>Denial of citizenship in their countries of origin</td>
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<td></td>
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<tr>
<td>Denial of legal migrant/resident status in receiving countries</td>
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<td></td>
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<tr>
<td>Violence</td>
<td></td>
<td></td>
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<tr>
<td>Lack of police protection</td>
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<tr>
<td>Police brutality</td>
<td></td>
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</tr>
</tbody>
</table>

7) Do you have any further comments or concerns that you would like to add?