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RECOGNISING THE ECONOMIC RELATIONSHIP BETWEEN SEX WORKERS AND SEX BUSINESSES

By Manpavan Kaur

This NTS Alert discusses the economic relationship between sex workers and sex businesses in Southeast Asia in order to critically examine hitherto narrow interpretations which posit an integral link between sex work and sex trafficking. Economic motivations of the sex industry can induce the voluntary entry of sex workers into the industry. This undermines the presumption that all sex workers are 'victims' of trafficking. Hence, this NTS Alert highlights the importance of broadening the interpretation of sex work if the exploitation experienced by sex workers in Southeast Asia is to be adequately addressed.



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Introduction

The sex industry in Southeast Asia is a significant source of foreign exchange earnings, especially for countries where prostitution has expanded into a highly structured transnational business in tandem with the tourist industry (International Labour Organization (ILO) study in 1998, quoted in Gupta, 2010:72). However, the economics of sex tourism within Southeast Asia remains understudied. There is also a lack of quantitative data on the sex industry in the region, which may be due to the challenges of data collection given the largely illicit nature of the region's sex industry, and the complex range of activities within the industry. At the conceptual level, there is a reluctance to recognise the economic motivations of sex workers despite the existence of studies iterating that the sex industry in Southeast Asia contributes substantially to employment and national income in the region (ILO, 1998; COA-Asia, 2008).

- **Conclusion**

- **Consortium of NTS Studies in Asia Website**

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The sex industry comprises businesses, such as brothels, providing direct sexual services to a variety of consumers, local and foreign. Sex tourism is a subset of the sex industry, and refers specifically to the buying and selling of sexual services between a tourist and a sex worker. It tends to draw on the structures and networks of the tourism industry, and the intent of this sub-sector, like that of the tourism sector in general, is to attract foreign currency. As such, sexual services are offered as ancillary services at tourist venues such as coffee shops, restaurants, bars, hotels and night clubs, massage parlours, escort services or karaoke clubs (Ahlburg and Jensen, 1998:151; Askew, 1998:137–40).

This NTS Alert begins by highlighting the economic significance of sex tourism in Southeast Asia and the fact that sex businesses in the tourism sector exist with the tacit sanction of authorities, despite their being part of an industry predominantly regarded as illegal in the region. This is followed by an overview of national and international regulations governing sex businesses and sex workers, with a focus on adult women (as this paper recognises that children and adult men raise different issues). It is observed that, in the absence of international monitoring of sex trafficking, the annual US *Trafficking in Persons (TIP) Reports* which emphasise state accountability for human trafficking has been particularly influential, and that this has led to sex work being closely associated with sex trafficking. The adverse impacts of

this narrow interpretation of sex work on sex workers are discussed, and the necessity of broadening the interpretation of sex work to account for economic motivations driving sex workers into the sex industry highlighted.

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The Sex Industry and Tourism in Southeast Asia

Sex tourism best reveals the economic significance of the sex industry to the state and to sex workers. As mentioned previously, precise data on sex tourism in Southeast Asia is difficult to gather. Nevertheless, an indication of the prevalence of sex tourism within Southeast Asia can be gleaned from its promotion through advertisements and in other media forums (Song, n.d.:2; Equality Now, 1996). For example, sex tour packages are a common form of publicity (The Protection Project, 2007:135). Information, complete with images, on red-light districts (RLDs) in Southeast Asia is cohesively catalogued for the traveller by Wikipedia and easily available on the internet in general (Wikipedia, 2011). In Southeast Asia, designated RLDs are conspicuous locations where direct and indirect sexual services can be sought. Furthermore, these areas – like 'Dolly' in Surabaya, Indonesia, one of the largest RLDs in Southeast Asia – tend to be sanctioned or licensed by local public authorities, indicating a certain recognition of the economic importance of these areas (Askew, 1998:142–4, Kurniawati, 2007).

The 2010 *TIP Report* highlights Malaysia and Thailand as among the main destination countries for sex workers in Southeast Asia. The sex tourism industry in Thailand is explicitly highlighted, while references to the industry in Malaysia are more subtle (US Department of State, 2010c:320). According to the report, sex workers (who are mostly from Thailand, the Philippines and China) enter Malaysia, and thus the commercial sex trade there, using visas linked to the entertainment sector such as 'guest relations officer' visas (US Department of State, 2010a:223; Saat, 2009:140–1).

Academic research on sex tourism also highlights destination countries in Southeast Asia, with the Philippines and Thailand being the countries most often mentioned in connection with this sector (Williams, 2002:7). The focus on the two countries is underpinned by the notion of a 'military sexual complex' derived from the historical sexual exchanges between Western military men and Asian sex workers during the Korean (1950–1953) and Vietnam (1964–1973) Wars. Military personnel stationed in Korea and Vietnam frequented the cities of the Philippines and Thailand; and impoverished local women migrated to these cities to offer sexual services to these servicemen (Nagel, 2000). With the end of the wars, the number of military personnel in the region decreased, and sex businesses expanded to provide sexual services as a subset of tourist activities in these countries.

In the Philippines, the growth of prostitution coincided with the expansion and development of the tourism industry (The Protection Project, 2007:132). The Protection Project (2007:132) further argues that while sex tourism was not openly promoted by the state, a climate of tolerance developed.

Scholars argue that, similarly, in Thailand, the development of 'mass tourism' in the 1970s to relieve national debt led to the expansion from, and the implicit institutionalisation of, the sexual exchanges previously occurring between foreign military men and sex workers in the country (Bishop and Robinson, 1998: Chapters 2 and 3). By the late 1990s, Thailand held a significant share of Southeast Asia's sex tourism sector, with an estimated USD300 million transferred annually by sex workers from their urban work places to their homes in rural areas (The Protection Project, 2007:155). In 2003, it was reported that prostitution was a USD4.3 billion industry in Thailand, accounting for an estimated 3 per cent of the country's income (Thais Mull, 2003).

However, despite the prevalence of sex tourism in Southeast Asia, sex businesses and sex work are largely illegal in the region

(Procon.org, 2010). In the following section, national and international trends in the regulation of sex businesses and sex workers will be highlighted. The section explains the dynamics influencing the adoption of a narrow interpretation of sex work which positions sex workers as victims of trafficking.

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Regulating the Sex Industry in Southeast Asia

International law does not criminalise sex businesses or sex work. This decision is left to individual countries due to complex and inter-related political, cultural and social considerations (Forster and Jivan, 2009:45; ILO, 1998). In this paper, the term ‘sex business’ refers broadly to a complex of investors/owners, operators and managers involved in the exchange of sexual services. The ‘sex worker’ is the individual providing the sexual service, such as a prostitute. Together they comprise the sex industry. National laws on the sex industry as a whole are complex and discretionary: the industry is governed by legislation at local and national levels, and in countries such as Malaysia and Indonesia, by religious laws.

Table 1 offers an overview of legislation related to the sex industry in Southeast Asia. Sex businesses are largely illegal in Southeast Asian countries. In countries where sex businesses are illegal, it is usually the case that sex work is also deemed illegal. Brunei is an exception – it has no legislation regulating sex work. Other countries such as Singapore, Thailand and Vietnam have explicitly excluded sex workers from the threat of criminal punishment despite sex businesses being considered illegal. Decriminalisation has occurred because sex workers have been likened to victims of trafficking, whose protection from criminal punishment is urged by Article 6 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol).

Table 1: Regulation of sex businesses and sex workers in Southeast Asia.

Countries	Sex Business ¹	Sex Worker ²
Brunei Darussalam	Illegal	Unregulated
Cambodia	Illegal	Illegal
Indonesia	Unregulated (Illegal by religious laws)	Illegal
Lao PDR	Illegal	Illegal
Malaysia	Illegal	Illegal
Myanmar	Illegal	Illegal
Philippines	Illegal	Illegal
Singapore	Illegal (unless licensed)	Decriminalised
Thailand	Illegal	Decriminalised
Vietnam	Illegal	Decriminalised

- Note:
- 1. Sex business – broadly, a complex of investors/owners, operators and managers involved in the exchange of sexual services.
 - 2. Sex worker – individual providing the sexual service, such as a prostitute.

Source: Compiled from Campbell (2010), BDHRL (2009a, 2009b, 2009c), Cambodia (2008), Chor (2008), Mattar (2002), SIREN (2008), Thailand (1996), The International Criminal Police Organization – INTERPOL (2003).

At the international level, Article 6 of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) represents international law on prostitution of women (see Box 1). All Southeast Asian states are signatories to the CEDAW (Caballero-Anthony and Bhalla, 2010). Although the CEDAW committee has not developed standards or mechanisms to evaluate whether a state is meeting its obligations, its concluding observations reinforce the need for states to ratify the Trafficking Protocol, enact anti-trafficking measures and provide for trafficked women’s rehabilitation and reintegration (IWRAW et al., 2009:66–7). Consequently, sex workers are regulated through sex trafficking mechanisms.

Box1: Article 6 of the UN Convention on the Elimination of All Forms of Discrimination against Women.

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

Source: UN (1979).

While many Southeast Asian states have not ratified the Trafficking Protocol, the monitoring and reporting conducted by the US Office to Monitor and Combat Trafficking in Persons, through the *TIP Reports*, have been influential in putting pressure on states to address sex trafficking (Chuang, 2006).

The *TIP Reports* are however premised on a narrow interpretation of the Trafficking Protocol (Jordan, 2000; MICA, 2010). According to the US Department of State (n.d.), which publishes the *TIP Reports*, an adult coerced, forced or deceived into or maintained in prostitution is a victim of trafficking. Furthermore, prostitution is not treated as a valid form of employment. The presumption here is that sex workers are 'victims of the sex industry' and lack free will, and thus their 'consent' is not necessarily indicative of their voluntary participation (US Department of State, n.d.).

This interpretation mirrors the view of a branch of radical feminist school of thought which considers any form of exchange of sexual services to be a manifestation of patriarchy and a violation of women's rights (Dworkin, 2004; Jeffreys, 2004). For example, Somswadi (2004:3–4) states that 'prostitution is not about women's choice and agency nor women enjoying rights over their own bodies; on the contrary, it is an expression of men's control over women's sexuality'.

As a consequence of this narrow interpretation of sex work, the *TIP Reports* focus on evaluating the efforts of countries to reduce the demand for commercial sex acts, so as to eliminate severe forms of trafficking in persons, particularly prostitution or sex work (US Department of State, n.d.). This restrictive approach precludes sex workers from being considered part of the formal labour force (Truong, 2001:5).

In the following sections, this narrow interpretation is critically analysed. The economic motivations of sex workers are examined and the exploitation which may occur is highlighted.

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The Shortcomings of a Narrow Interpretation of the Trafficking Protocol

The narrow interpretation which links sex work to sex trafficking is precarious for sex workers. It leads to states, including those in Southeast Asia, having the perception that sex workers are more likely to have been trafficked than to have migrated for sex work through their own choice (Agustin, 2006:43).

In reality, the voluntary economic migration of sex workers has occurred concurrently with the expansion of the sex industry in Southeast Asia, especially as workers become increasingly able to mediate political and sociocultural boundaries (Murray, 1998:424). It has also been noted that commercial sex workers in Southeast Asia tend to move from their places of origin to engage in sex work through (voluntary) migration (Ahlburg and Jensen, 1998:161).

Furthermore, some sex workers in Southeast Asia consider sex work a viable option for coping with poverty, unemployment and family obligations (ILO, 1998). It has been observed that sex tourism in the region has provided women with a steady and lucrative income opportunity (Williams, 2002:7). A study of prostitution in Indonesia concludes that while the sex industry comprised sectors with miserable earnings and working conditions such as cheap brothels, there were segments of the industry offering 'relatively high earnings compared with other occupations in which women with low levels of education are likely to find work' (ILO, 1998).

Moreover, as UN Special Rapporteur on Violence against Women, Radhika Coomaraswamy, explains, exploitative and dangerous conditions can be found across a range of industries internationally. For example, it could be argued that the case in Thailand in the 1990s of 5 workers who burnt to death because they were chained to the beds in a brothel and could not escape is similar to the case of more than 200 Thai women who burnt to death around the same time in a Thai toy factory because the exit doors were locked (Murray, 1998:416).

An insistence on prostitution as violence against women creates a protection gap for sex workers as it diverts attention from tackling exploitative labour conditions and the lack of rights within the industry. Instead, it is observed that the illegality of the sex industry dovetails with criminal law enforcement (Kvinnoforum, 1999:10–12; Anderson and Andrijasevic, 2008:139; Agustin, 2006). Accordingly, a broader interpretation of sex work would also be useful in preventing excessive criminal enforcement measures.

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The Migration and Labour Rights of Sex Workers

Despite evidence that the participation of women in sex work in Southeast Asia may be driven – at least in part – by economic imperatives, the narrow interpretation of sex work discussed earlier precludes a consideration of the migration and labour rights of sex workers (Kneebone, 2010:152–6).

At present, immigration policies place restrictions on formal, secure access to preferred destinations for sex work. This leads to the engagement of non-legal intermediaries to overcome these immigration barriers (Kneebone, 2010:143). These intermediaries redress the imbalance between demand by the sex industry, the number of people seeking entry and immigration constraints (Sole, quoted in Derks, 2000:9).

Some of these intermediaries may be assistive. An example would be the cottage industries facilitating the migration of sex workers (ILO, 2006:16). Research on the migration of sex workers within Malaysia and the Mekong region revealed that presumed traffickers were often friends and acquaintances of friends, and returned sex workers from the same region of origin as potential migrants (Piper, 2005:212).

However, non-legal intermediaries may also be exploitative. Although real abductions are rare in Southeast Asia, intermediaries can cause difficulties for migrating sex workers through deception, various levels of violence and debt bondage (Piper, 2005:211, 253; Murray, 1998:419). Formal and regulated migration routes could negate the need for non-legal intermediaries, thus preventing such exploitation (Davies, 2008:10).

The narrow interpretation of sex work, and the consequent focus on criminal law enforcement of the sex industry, prevents official monitoring of labour standards within the sex industry (Agustin, 2006:42; Piper, 2005:222). Working conditions of sex workers in Southeast Asia can vary widely, from freely chosen and remunerative employment, to debt bondage (ILO, 1998). The failure to regulate the working conditions in the sex industry allows employers or agents to create their own – often exploitative – conditions for women, whereby they can take advantage of legislative weaknesses (Truong, 2001:6). Employers and agents within the sex industry look for workers who are cheap, obedient and easy to control (ILO, 2006). These sex workers may be subject to low remuneration, excessive hours of work, hazardous work conditions, and physical and mental abuse (Piper, 2005:214).

The above discussion highlights the shortcomings of an inertia in policymaking when it comes to a consideration of the existence of diverse and complex experiences among sex workers (Agustin, 2006:32). A narrow interpretation of sex work which focuses only on sex trafficking, and is enforced by states through criminal and immigration law, may lead to sex workers being removed from the industry and placed in shelters. However, this approach fails to take into account those who repeatedly escape these shelters to return to work in the sex industry (Agustin, 2006:43; Davidson, 2010:250). A broader interpretation of sex work could give this group of sex workers, as well as policymakers, a better opportunity to tackle the structural factors that trigger or impede their migration.



A sign at a Thai coffee shop seemingly offering ancillary sexual services.

Credit: ToGa Wanderings/Flickr.com

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Conclusion

The effect of the illegality of sex businesses is that sex workers are not legally protected from exploitation (Redclift and Sinclair, 1991:98). However, even where sex work has been decriminalised, international regulations for the protection of sex workers tend to be predicated on a narrow interpretation of sex work. This is an interpretation which is encouraged by the *TIP Reports*, which presume that sex workers are 'passive victims' wanting to be removed and returned to their countries of origin (Timoshkina and McDonald, 2007).

However, as discussed earlier, the focus on victimhood diverts attention from the economic motivations of sex workers. The economic relationship between sex workers and sex businesses needs to be considered to facilitate a broader conceptualisation of sex work which goes beyond trafficking. It is only when it is acknowledged that sex workers are not always victims, but are sometimes voluntary participants in the sex industry, that states can become more targeted in their protection of sex workers from exploitation by the industry (Muntarhorn, 2002).

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