



CANADA'S PERIODICAL ON REFUGEES

REFUGE

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NEW CARGO: THE GLOBAL BUSINESS OF TRAFFICKING IN WOMEN

Introduction

Marilou McPhedran

By the time you read the current issue of *Refuge*, much of the effort implicit in the reams of email, Internet searches, international courier deliveries, and good old-fashioned editing will have disappeared within these pages. It has been a privilege and a pleasure to work on this issue. I have been immeasurably supported by many, but special appreciation must go to those who volunteered so much time and expertise to see this project through: Stefanie Gude, my assistant editor, and Kelly Mannix, Emma Rhodes, Ayesha Shamim, and Peter Madaka. We have learned so much from our contributors—they have been generous with their knowledge and tenacious in their commitment to justice.

I first had the idea of doing this special issue of *Refuge* while attending an excellent international workshop, co-sponsored by the Office of the United Nations High Commissioner for Refugees Resettlement Section with Citizenship and Immigration Canada, entitled "Evolving Approaches to the Protection of Women at Risk." Several participants from various countries articulated concerns about the limited nature of exist-

ing definitions of the terms "refugee" and "women at risk." As the discussion developed, it seemed to me that economic forces were being cited, more often than the forces of war, as being responsible for the production of refu-

gees. Indeed, the fledgling "women at risk" refugee programs, originating in Canada and now operating in Australia, New Zealand and the United States, were designed to save women in danger, and yet are failing to protect

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many of the women refugees who are "at risk," primarily due to gender.

The discussion of how "genuine" refugees are created underscores for me the ways in which attribution to "forces of war" can obfuscate an understanding of how larger, deeper forces impel the desperate quest for economic and social rights. It is this quest which sustains trafficking in persons as a sophisticated multinational trading enterprise.

As the UN Working Group on Contemporary Forms of Slavery has observed,

the same families and groups of people are often victims of several kinds of modern slavery—for example, bonded labour, forced labour, child labour or prostitution—with extreme poverty as a common linking factor.¹

Slavery is predicated on the commodification of human beings; hence, "New Cargo" as the title of this issue. Sadly, the title reflects an age-old practice, currently abetted by modern technology, transportation, and the global economy.

In the lead article, anthropologist/filmmaker David Feingold analyzes the economic and social forces that cause women to live at risk of being trafficked, and the systems that sustain the industry of trafficking. Many of the ensuing articles in this issue do not read like typical academic essays, because they have not been written by academics. Much meaningful work on trafficking is being done by people linked with universities, who are also connected to "on the ground" organizations and the individuals involved with the daily reality of those being trafficked. These are the voices—from Bangladesh, Canada, Ghana, Guatemala, Israel, Japan, Nepal, Thailand, and Ukraine—that we have tried to bring to this issue. For example, the article from Nepal illustrates some of the direct action strategies being implemented at the local level to counter trafficking, and notes the concern that, as their living conditions worsen, young Bhutanese refugee women living in Nepal are "next" as targets for trafficking profiteers. Around the world,

the majority of refugees are female and the majority of those trafficked are female.

I hope that you will be moved by some of what you read here, and I hope that you will be enraged. Since the majority of *Refuge* readers are located in North America, I also hope that you will use this issue of *Refuge* as a resource guide for action. Please note the excellent online bibliography prepared by Kelly Mannix and Ayesha Ahamim, my associates at the International Women's Rights Project of the York University Centre for Feminist Research. You can have access from your home to support work being done in other countries, as well as your own.

Influenced by my legal training, I found myself asking how trafficking fits within the context of the United Nations treaty system, and whether or not international law is of any use in countering the contemporary form of this lucrative trade, in which the majority of those trafficked are female. The Fourth World Conference on Women in Beijing in 1995 ended two decades of United Nations conferences aimed at developing strategic priorities in the quest for women's equality. Obligations to stop trafficking have been part of the earliest United Nations precedents in international human rights law. Many of the leaders in this field, well represented herein by the thoughtful points of Ali Miller, advocate for more effective use of the laws we already have. When combined and given effect, these laws can serve as a comprehensive bill of rights of women and girls.²

Although the Geneva Conventions³ did address trafficking some fifty years ago, more recent conventions and treaties have been better informed by gender analysis. With appreciation to Donna Sullivan, UNIFEM and UNICEF, here are some examples of the links between strategic objectives in the Beijing Platform for Action adopted by the Fourth World Conference on Women in 1995 (which is not a legal instrument) and related United Nations legislation:⁴

The ratification and enforcement of international conventions on trafficking in persons and on slavery is a

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key aspect of the strategic objective in the Beijing Platform for Action, S to "promote and protect the human rights of women, through the full implementation of all human rights instruments, especially the Convention on the Elimination of All Forms of Discrimination Against Women." 6

The 1993 World Conference on Human Rights generated the Vienna Declaration, which

appeals to states that have not already done so to accede to the Geneva Conventions of 12 August 1949 and the Protocols thereto, and to take all appropriate national measures, including legislative ones, for their full implementation?

Participants at the Vienna conference also urged the Commission on the Status of Women and the Committee on the Elimination of All Forms of Discrimination Against Women to "quickly examine the possibility of introducing the rights of petition through the preparation of an optional protocol" to the Women's Convention, CEDAW. 8 The value of an optional protocol as a key strategy in the struggle against trafficking is explained in more detail in my concluding interview with Ali Miller.

Article 6 of CEDAW, the "Women's Convention," calls for "all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution in women," while Article 35 of the Convention on the Rights of the Child requires the commitment of States Parties "to take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of, or traffic in children for any purpose or in any form."

There is ample evidence to demonstrate that preventive measures taken by governments are less than comprehensive. As a result, assistance to the victims of trafficking is a necessary response. Article 19 of the 1949 Convention obligates States Parties to make suitable provisions for the "temporary care and maintenance" of trafficking victims "so far as possible," to repatriate them "only after agreement... with the State of destination," and to bear the

costs of repatriation for victims without the means," as far as the nearest frontier or port of embarkation or airport... "

The Vienna Declaration and Program for Action calls on States Parties to strengthen the implementation of all relevant human rights instruments in order to combat and eliminate, including through international cooperation, organized and other forms of trafficking in women and children, including trafficking for the purposes of sexual exploitation, pornography, prostitution and sex tourism, and provide legal and social services to the victims; this should include provisions for international cooperation to prosecute and punish those responsible for organized exploitation of women and children. 9

The Declaration on the Elimination of Violence Against Women 10 identifies trafficking as a manifestation of violence, calling on states to take preventive and rehabilitative action. Similar statements exist in the Programs and Plans of Action from the International Conference on Population and Development, the Fourth World Conference on Women, the World Summit for Social Development, 13 and Habitat- Istanbul. 14

As an international community, we are not lacking in laws that address the global business of trafficking and the resulting damage to human beings. As the articles in this issue will illustrate, there is no further need for "head office" diplomacy or drafting of new legal instruments. It is time for an implementation of the human rights principles that abound in the United Nations treaty system, for protection of those who have

been trafficked, and for punishment of the traffickers and the purchasers. II

Notes

1. UN Working Group on Contemporary Forms of Slavery, "Contemporary Forms of Slavery," *Human Rights Fact Sheet*, no. 14 (Geneva: United Nations Centre for Human Rights, 1991), 2.
2. Introduction, *Commitments to Rights: A Cross-Reference Guide to the Human Rights of Women* (1998, UNIFEM and UNICEF) distributed by Women, Ink. 777 United Nations Plaza, 3d Floor, NY, NY 10017 USA.

3. The 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others requires States Parties to punish any person who: "[p]rocures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person" (Article 1(1)); "[e]xploits the prostitution of another person, even with the consent of that person" Art. 1(2); "who [k]eeps or manages, or [k]nowingly finances or takes part in the financing of a brothel" (Article 2(1)).

4. Sullivan, Donna, *Commitments to Rights: A Cross-Reference Guide to the Human Rights of Women* (1998, UNIFEM and UNICEF) distributed by Women, Ink. 777 United Nations Plaza, 3d Floor, NY, NY 10017 USA.
5. Paragraph 130 (a) Beijing Platform for Action adopted by the Fourth World Conference on Women, Beijing, 1995.
6. Convention on the Elimination of All Forms of Discrimination Against Women, (CEDAW) entered into force 3 September, 1981, ratified by 162 States as of November, 1998.
7. Section IIE, paragraph 93 of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, Vienna, 1993.
8. Part IIB, paragraph 40, *ibid*.
9. Part IIB, paragraph 40 (n), *ibid*.
10. Article 4 (c, d, f, g).
11. Programme of Action adopted by the International Conference on Population and Development, Cairo, 1994.
12. FWCW-Beijing 1995, Paragraphs 107 (q), 125 (b, c) 126 (d) 130 (b, c, d).
13. Program of Action adopted by the World Summit for Social Development, Copenhagen, 1995, Chapter I, 17 (b), Chapter 3, 63 (c, d), Chapter 4, 78 (a), 79 (k).
14. Second UN Conference on Human Settlements, Istanbul, 1996, Paragraph 123 (j). J

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