

CCARHT Counter Trafficking Cambridge
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Loraine Gelsthorpe, Director, Cambridge
Centre for the Study of Global Human
Movement (lrg10@cam.ac.uk)
www.humanmovement.cam.ac.uk

- ▶ The several Rs of Trafficking: Risks and Rewards & Research Gaps. This talk- *research gaps* regarding victims of trafficking who are then criminalised. Introducing 4 Cs...
- ▶ Criminalisation
- ▶ Context
- ▶ Concepts
- ▶ Concerns

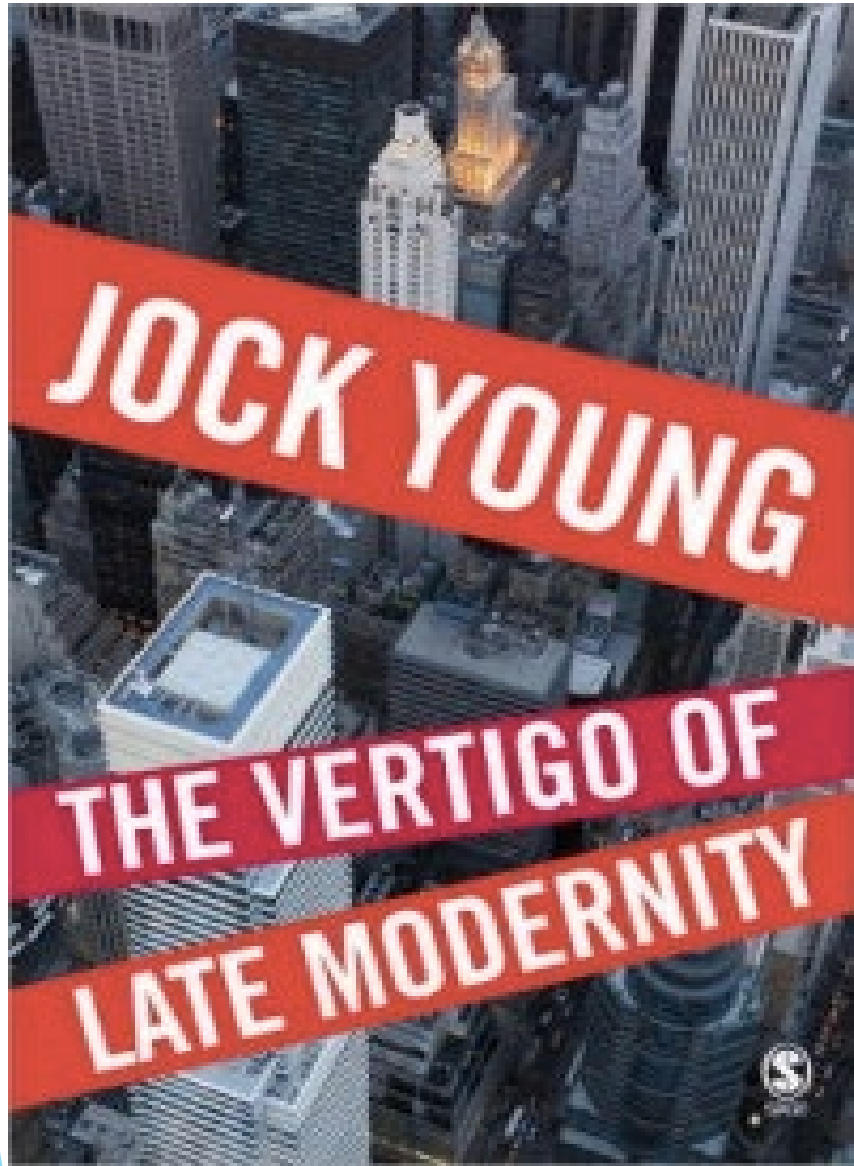


The criminalization of migrants in the UK

- ▶ A tightening up of border security
- ▶ Introduction of points based system regarding rights to enter for work
- ▶ Raids on premises to identify and prosecute those employing illegal immigrants
- ▶ Automatic deportation provisions (from 2008) for those sentenced to imprisonment for 12 months+ (UK Borders Act 2007)
- ▶ Perceived threat of the ‘foreign criminal’ ...criminalisation of the ‘other’
- ▶ Brexit related concerns about ‘the other’...

Migrants in the 21st century: understanding responses

- ▶ ‘Late modernity’
- ▶ Social changes: economic, family/community, technological
- ▶ Economic insecurity: ££££
- ▶ Erosion of trust
- ▶ The culture of risk
- ▶ Fear of the ‘other’
- ▶ Ontological insecurity



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THE OTHERS



State failing to deliver economic or physical security ... so focuses anxieties ... on readily identifiable (visible) targets ... where the state can be seen to act 'decisively'

'Governance through crime'
(Jonathan Simon)

Key question: How can we ensure the protection of victims of human trafficking?

- ▶ Smuggling and trafficking: differences
- ▶ 2011- The development of a new EU directive; more needed to be done to:

Raise awareness, reduce vulnerability, support and assist victims, fight the root causes of trafficking and support those third countries (of origin and transfer of victims) in developing appropriate anti-trafficking legislation' (European Union Parliament, 2011, para 2)

- ▶ In the UK the formal method of identifying potential victims of trafficking is via the **National Referral Mechanism** (NRM) (from 2009)
- ▶ First responders -> central contact point -> allocation to *Competent Authority* - which looks at *Reasonable Grounds* (5 day decisions + 45 days of reflection and recovery)
- ▶ CPS advice - in public interest to stop prosecution where offences committed whilst in a coerced situation

Conceptual struggles

- ▶ The field's construction of the 'offender' and 'victim'
- ▶ Media and policy -led master narratives - frame human trafficking as an 'exceptional crime' for which malicious offenders must be prosecuted to the full extent; vulnerable victims must be rescued
- ▶ Critical trafficking studies - frame trafficking in social context, as a result of broad structural factors such as socio-political deprivation, labour inequalities, global inequalities, and immigration control - which contribute to the prevalence of trafficking and relatedly emphasise the vulnerabilities of 'offenders' and the agency of 'victims'
- ▶ The concept of the 'ideal victim'
- ▶ Focus on the increasing criminalisation of certain forms of migration

VICTIM (and offender)

- ▶ The Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 2005 (adopted in the UK 1.4.2009) defines trafficking as:
 - ACTs such as recruitment, receipt, transportation
 - By MEANS such as threats, coercion, deception, abuse of position of vulnerability
 - For the purpose of EXPLOITATION such as sexual exploitation, forced labour or slavery

Those who experience this are VICTIMS and the National Referral Mechanism (NRM) was set up to give them formal recognition

OFFENDER (and victim)

- ▶ VICTIMS in custody have been arrested for:
 - Illegal entry into the country and/or living in the UK with no legal residency status
 - Work in illegal activities
 - Being in possession of or using false documentation to return home, access work or achieve residency status

These are **CRIMINAL OFFENCES**

Victim-offenders? Example: The criminalization of migrant women workers

- ▶ Poppy Project – 21% of referrals between 2001 and 2007 – had been held within the prison or immigration estate
- ▶ This continued between 2007–2010 despite the new legislation
- ▶ Anti-trafficking Monitoring Group raised concerns in 2010
- ▶ Flaws in victim identification processes: **conspiracy or ...clumsy?**
- ▶ Hidden victims...

‘Victim-offenders’: The aims of the research

- ▶ Fill knowledge gap about migrant women in custody
- ▶ If there are victims of trafficking, smuggling and work under duress in custody – why are they there?
- ▶ Examine how they are managed through the criminal justice and immigration procedures
- ▶ Identify potential areas of non-compliance with Trafficking Convention and Human Rights legislation
- ▶ Make informed recommendations for change

Research Design

- ▶ Identification of potential victims via prison records
- ▶ Interviews and follow-up interviews
- ▶ Monitoring of cases
- ▶ Information gathering from other sources
- ▶ Use of translators
- ▶ Harrowing conversations and case studies

Research findings

- ▶ Interviews with 103 migrant women
- ▶ We found that 43 of them entered the country at the hands of traffickers and/or have worked under duress (2 formally reassessed as children)
- ▶ (+ 5 had entered the UK independently but fallen into slavery/servitude; +10 entered in hands of agents but then arrested because of theft of relevant documents by smugglers)
- ▶ Follow-up interviews and monitoring of the 58 cases
- ▶ Common socio-economic factors behind their vulnerability to recruitment
- ▶ Common themes of abuse in transportation and work
- ▶ Modes of employment challenge public perceptions and focus on sex work

‘Victim-offenders’: Who were the women?

- ▶ 79% (34 of the core group of 43) involved in non-skilled work before departure
- ▶ For all but 8 their first move from home
- ▶ 20 women forced to work in prostitution; 15 in cannabis production; 8 in domestic servitude; 2 drug mules; 8 involved in street robberies and the sale of fake goods
- ▶ Main offences for which the women were arrested: false identity documentation (20) & production of cannabis (14)

Where were the women from and key reasons for migration?

- ▶ Nigeria
- ▶ Vietnam
- ▶ China

- ▶ Accessing work
- ▶ Asylum
- ▶ Mixture of asylum and work
- ▶ Accessing school/education

Experiences

- ▶ Disempowerment
- ▶ Physical and/or emotional abuse
- ▶ 24 indicated experience of multiple rapes (ongoing threats)
- ▶ Threats did not disappear upon arrest
- ▶ Socially isolated; vulnerable; traumatised
- ▶ 28 indicated that they had children
- ▶ 79% (34 of the core group of 43) did not speak English as a First language
- ▶ Of the core group of 43 women identified as victims of trafficking only 11 had been processed through the NRM (+ 4 advised that this option was open to them - but 3 declined - short sentences and wanted it all to be 'over'; 1 too frightened to make full disclosures of experiences)

Experiences

- ▶ ‘I left because my life was in danger. I was arrested because the X group I lead. The first fifteen days I was kept in separation and no-one was allowed to see me. I was then transferred to X prison where I was held for four and a half months. Every day they said they would kill me but first they would rape me. My father got me out by paying a large amount of money...after getting out I fled the country’ (50; *smuggled into UK*)
- ▶ The father of my children died in X. The family said that I was a witch and that I had killed him. They took all my belongings and I fled to Lagos. In Lagos I met this man who brought me here (66; sex trafficked to the UK)

Experiences

- ▶ A regular visitor to the house was a friend of my husband...She saw I was not happy and I confided in her. I had no other friends there and she was an older woman in her forties and she said she would help me get to England (26; trafficked from Nigeria and forced into sex work)
- ▶ I started fetching water door to door for people in the community. I was asked by a couple – would I like to live in England with them – as they like to help girls like me with education. Not knowing they were trafficking people to the UK for prostitution, I said yes (62; forced into sex work)

Wider issues of management through the criminal justice system

- ▶ Disempowerment of remand in custody
- ▶ Factors encouraging a guilty plea
- ▶ **Lack of victim protection**
- ▶ Foreign legislation, foreign language and long term impact of victimisation
- ▶ Limitations of legal aid support

Key Concerns

- ▶ Not all recognised victims are being dealt with in compliance with the Convention
- ▶ The whole story is seldom heard
- ▶ The defendant is ‘off stage’
- ▶ The option of ‘**Guilty**’ or ‘**Not Guilty**’ and duress of circumstance (psychological impact of imprisonment)

Implications of the research?





EU Directive adopted on 14/12/2010

Article 8 on non-application or non-application of penalties to the victim

- ▶ Include offences of forced begging and *exploitation of criminal activities*
- ▶ Non prosecution of victims in relation to *'use of false documents...as a direct consequence of being trafficked'*

Implications?

- ▶ Identification of victims? Ways of retaining humanity?
- ▶ Managing victims
- ▶ Management through immigration process
- ▶ In the best interests of the child
- ▶ **A practical approach to recognise victim-offenders sooner**, and in better ways, could reduce the cost of re-traumatisation, the cost of health, and the human cost of making vulnerable people even more vulnerable
- ▶ Justice reinvestment in this way addresses questions of morality - the highest cost of all if we fall below high standards of humane treatment

Research gaps: and questions for this afternoon

- ▶ The victim-offender relationship and overlaps?
- ▶ The effectiveness (or otherwise) of the National Referral Mechanism?
- ▶ Immigration Detention Centres - protection of vulnerable people within?
- ▶ How to address fears about migration - bearing in mind some myths, muddles and misconceptions?
- ▶ How to ensure that victims of human trafficking are identified and responded to appropriately, with humanity?
- ▶ How to ensure that we do not *dehumanise* 'the other'?



Professor Loraine Gelsthorpe, Institute of Criminology, University of
Cambridge. lrg10@cam.ac.uk

The Criminalization of Migrant Women:

http://www.crim.cam.ac.uk/people/academic_research/loraine_gelsthorpe/criminalreport29july12.pdf

