

TRAFFICKING IN WOMEN: BORDER CONTROL, GENDER AND  
CRIMINAL POLICY

Agustina Iglesias Skulj<sup>1</sup>

**Abstract:** *In Europe the issue of trafficking has been quasi-invisible until the 1990s. More recently the visibility of trafficking has been raised as a problem of numbers. Millions of people were reported to be enslaved, forcefully moved across borders and exploited. Yet, numbers were felt to be misleading, insufficient and incapable of speaking the truth about trafficking. This article will analyze the incidences of statistics and numbers in the design of criminal policies in the European Union from a governmental and gender perspective that look for counterpart the abolitionist statements in prostitution.*

**Keywords:** immigrants risk and control, human trafficking, illegal migration.

## 1. INTRODUCTION

In the last decades there was an instrumentation of the borders and control. There have been several changes in the regulation and frameworks of migration, involved in an expansion of the punitive dimension. In many cases, this culture of control has resulted in behaviours that were not criminal becoming criminalized. In this context, it is important to analyze the problematization and the management of feminine immigration in the way that Foucault has called governmentality<sup>2</sup>.

Borders have been identified as a key site where control is played out. Border is at the same time an external border that sanctions and maintains the difference between “us and them”, “citizens and aliens”, and also an

---

<sup>1</sup> Postdoctoral researcher- Universidade da Coruña, Spain. This article is part of my research work in the Project *Medidas Alternativas á privación de liberdade: riscos e beneficios*

<sup>2</sup> **M. Foucault**, “On Governmentality”, *Ideology and Consciousness*, (Autumn) 6, 1979; P. Marinis Cúneo, “Gobierno, gubernamentalidad, Foucault y los anglofoucaultianos (un ensayo sobre la racionalidad política del neoliberalismo)”, in Ramos Torre/García Selgas (eds.) *Globalización, riesgo y reflexividad. Tres temas de la teoría social contemporánea*, CIS, Madrid, 1999, p. 96; J. Donzelot, “The mobilization of society” in Burchell/Gordon/Miller (eds.), *The Foucault effect: Studies of governmentality*, Hemel Hempstead, Harvester Wheatsheaf, 1991, pp. 169-179. The governmentality framework can also allow for local variation and careful empirical testing, can help us understanding what may appear to the absence or excess of regulation.

internal border that confines undocumented migrant women to the low-end service sector of the economy<sup>3</sup>. Indeed, the hegemonic construction, product of the heterosexist and patriarchal model, influences in the determination of the migratory status and in the design of the technologies of control. In this sense, the contemporary analyses of the feminine migrations are dealing with categories that no longer fit with the paradigm of control in the present time. The model of “guest-worker”, during the 1950-1970 mass labour migrations in Europe functions with some myths like the men are “primary” migrants while women are just “secondary”.

The women work in sectors of the economy such in domestic and caring sectors where the temporality and the informality of employment relations, the level of income and the type of living arrangements make it difficult to fulfil the requirements for the legal status, or family reunification according to the law. Indeed, young single women’s migration is subject to immigration regulations that enforce norms around gender and sexuality<sup>4</sup>.

Furthermore, although migration is a fact of a globalized economy, this movement has yet to be adequately addressed with the discourse of market management or international migration or labour law. It is addressed primarily through the international legal order by initiatives dealing with trafficking, human smuggling, law and order, border controls, security and sexual morality. A premise that still underpins many national anti-trafficking laws and policies is that not only is trafficking for work in sex industries a transnational crime, but sex work itself is a criminal act. In this context, many of the claims about trafficking are unsubstantiated and undocumented, and are based on sensationalist reports, a problem that extends to wider international discourses on transnational crime<sup>5</sup>.

The migrations policies display series of welfare, legal and criminal devices that depends on the specialized development of knowledge (statistical, doctor-psychological profiles, treatments, European and local measures, guides, etc.). Moreover, we are attending to the transformation of the perception and the ways to approach the relation between the

---

<sup>3</sup> **R. Andrijasevic**, “Sex on the move: Gender, subjectivity and differential inclusion”, *Subjectivity Issue* 29, 2009, p.393; N. De Génova, “Migrant illegality and deportability in everyday life”, *Annual Review of Anthropology* 31, 2002, pp. 419-447; S. Mezzadra/B. Neilson, “Border as method, or the Multiplication of labour, 2008, available in [HTTP://eicpcp.ent/transversal/0608/mezzadraneilson/en](http://eicpcp.ent/transversal/0608/mezzadraneilson/en).

<sup>4</sup> *Compas Irregular Migration, Research, Policy and Practice*, Annual International Conference, 7-8 july, 2005.

<sup>5</sup> **Kempadoo K.**, “From Moral Panic to Global Justice”, in Kempadoo K., (ed.) *Trafficking and prostitution Reconsidered. New perspectives on migration, sex work, and human rights*, Paradigm Publishers, London, 2005, p. XXII

women and the state<sup>6</sup>. In this sense, migration policies are grounded in the simples' dichotomies that organize this kind of perspective, that identifies men with activity, production, and the public sphere, and female subjectivity identified with passivity, reproductive and private space. Such a hierarchical scheme heavily influenced women migrant position as dependent with derived wrights and their exclusion from fully citizenship<sup>7</sup>. Nowadays there has been a partial shift in this model, because of the increasing number of migrant women. Meanwhile formal immigration laws treats equally men and women, gendered and radicalized coding of the labour markets still impacts differently on migrant women<sup>8</sup>.

Since the 1990s a growing number of women from Eastern Europe new and no-UE member states have migrated to the UE for work in the domestic and entertainment sector, agriculture and sex industry<sup>9</sup>. In the context of the policies in migration we came across too the problematization of human trafficking. It refers to how human trafficking becomes an object of regulation, what elements constitute it and what ordered procedures for the production, regulation, distribution, circulation and operation of statements' about human trafficking are given as truthful. As Claudia Aradau points out "by being derived from social phenomena that are problematized in terms of security, human trafficking is subjected to the same ordered procedures of production, regulation and circulation of statements. These ordered procedures do not only make visible human trafficking as an object of knowledge they also obscure contradictory statements in the regulation of the "truth" about human trafficking"<sup>10</sup>.

This current framework in the regulatory control has been strengthened in the UE context -but not only-, by a strong "trafficking" discourse that

---

<sup>6</sup> B. Marugán/C. Vega, "Acción feminista y gubernamentalidad. La emergencia pública de la violencia contra las mujeres", 2008, [http://casosmosis.acracia.net/wp2pdf/texto\\_de\\_caosmosis.pdf](http://casosmosis.acracia.net/wp2pdf/texto_de_caosmosis.pdf)

<sup>7</sup> H. Afshar, "Mujeres y desarrollo: una introducción", in P. Villota (ed.) *Globalización y Género*, Ed. Síntesis, Madrid, 1999; N. Alonso Rodríguez, "Emigración y Desarrollo: implicaciones económicas", *La Insignia*, octubre y noviembre, 2004, [www.lainsignia.org](http://www.lainsignia.org); H. Askola, *Legal Responses to trafficking in women for sexual exploitation in the Europe Union*, Hart Publishing, Oxford-Oregon, 2007; Y. Azize, "Empujar las fronteras: mujeres, migración internacional desde América Latina y el Caribe", in R. Osborne (ed.), *Trabajadores del sexo. Derecho, migraciones y tráfico en el siglo XXI*, Bellaterra, Barcelona, 2004.

<sup>8</sup> See A. Girón, "Género, globalización y desarrollo, CLACSO, Buenos Aires, 2009, pp. 77-97; B. Neilson, "The world seen from a taxi: Students-migrants-workers in the global multiplication of labour", *Subjectivity Issue* 29, 2009, pp. 425-444; Southern Poverty Law Center, *SPLC Close to Slavery: Guestworker Programs in the United States*, 2007.

<sup>9</sup> G. Nicolás Lazo, "Migraciones femeninas y trabajo sexual. Concepto de trabajo precario versus tráfico de mujeres", in Rivera Beiras et.al. (eds.) *Contornos y pliegues del Derecho. Homenaje a Roberto Bergalli*, Anthropos, Barcelona, 2006.

<sup>10</sup> C. Aradau, *Rethinking trafficking in women. Politics out of Security*, Palgrave, New York, 2008, p. 3.

oversimplifies links between women, traffic, victim and sexual work. What began in the mid 1990s as a campaign against sex trafficking has steadily expanded over time. In addition, over time the focus of the moral crusade links sex trafficking to prostitution. The central premise is that sex trafficking is inseparable from prostitution, and prostitution is evil by definition<sup>11</sup>. Not only are the two conflated, but the policies and some feminist theorist also claim that “most” sex workers have been trafficked. Sex work migration in particular is always identified with forced migration and classified with under the heading of trafficking. The trafficking rhetoric, however, conceals women autonomous migration and their migratory projects behind the term “victims”. Trafficking rhetoric depicts organized crime as slaving women in prostitution by means of force or debt bondage<sup>12</sup>.

Until recently, prostitution was not a prominent public issue in Europe. Law and public policy was relatively settled. The past decade, however, has witnessed a growing debate over the sex trade and the growth of an organized campaign committed to expanding criminalization. Some scholars begin to study the “mainstreaming” of sex industry<sup>13</sup>. Both media and academic research note a shift in the social classes typically associated with the sex industry. Media increasingly highlight the growth of both middle-class consumers and workers in adult markets, and with that a subtle shift in the perceived respectability of those involved in the industry. The changes in late-capitalism culture and economies encourage and normalize the growth of sexual commerce. Studies are also demonstrating an increasing commercialization or commodification of intimacy and a heightened sexualisation of gendered forms of work. Thus, sexuality has become a central component of late-capitalism consumer culture<sup>14</sup>.

Regarding the discourses in migration and in prostitution, in Europe the phenomenon of trafficking was fuzzy and slippery and needed to be pinned down by being carefully derived from other social problems to which it was contiguous or similar. If counting people who are trafficked is an insufficient strategy, human trafficking is made visible in relation to the larger spectrum of urgent social and political problems. Since the policies highlight the trafficking as an issue that needs urgent solution, with neo-liberal orientation of the policies, visibility of trafficking has been

---

<sup>11</sup> **R. Weitzer**, “The movement to criminalize sex work in the United States”, *Journal of Law and Society*, vol. 37, n°1, March 2010, p. 71.

<sup>12</sup> **C. Aradau**, (op.cit., note 10) p. 48.

<sup>13</sup> See **B.G.Brents/T.Sanders**, “Mainstreaming the sex industry: Economic Inclusion and Social Ambivalence”, *Journal of Law and Society*, Vol. 37, n°1, March 2010, pp. 40/60. The mainstreaming thus involves two interrelated factors, economic and social integration.

<sup>14</sup> **Brents/Sanders**, (op.cit. note 13), p. 45.

raised as a problem of numbers. We do not know how many persons are trafficked across borders every year. The grand claims made by abolitionist groups that the magnitude of the problem is huge and growing are entirely unsubstantiated, but quite strategic. The size of a social problem matters in attracting media coverage, donor funding and attention from policy makers. The anti-trafficking crusade claims that there are hundreds of thousands or millions of victims worldwide, and that trafficking has reached an “epidemic” level. How do you count something that is all underground? Rather than numbers what counts is the way human trafficking is seen as linked with other phenomena of concern.

## 2. BUILDING UP THE VICTIM. RISK AND CONTROL

Why the image of the immigrant sex workers as victim is so powerful? Once again, appears the “popular myth” that a century ago accompanied the policy making: the simplifying idea of “young” women, “foreign” innocents” and dealers, under whom to many fears and anxieties are hidden, the fear to immigrants that invade the nation, the unstoppable capitalist expansion and the terror to the independence of the women and its sexuality, that seem necessary to deny the women their capacity of action and its autonomy, specially its sexual autonomy. In addition, it is necessary to count with “the colonial glance” of the western feminist oriented to perpetuate the presumption of infantilism and helplessness of the woman of the third world. This frame makes sense in the government technologies unfolded by the EU around the migrant sex-workers. To the arguments of oppression are added that ones that come from the class: poor women who are in irregular situation. Maqueda<sup>15</sup> concludes that “behind these moral grounds of the crimes without victims is frequently a social group that is to be controlled”.

By placing human trafficking within the social and political context from which it is derived –that of illegal migration, organized crime, prostitution and human rights abuses- there is security construction that holds together these apparently contradictory elements. The contradictions that subtended the description of trafficking and the measures taken to tackle it emerge from the very location of the phenomenon of trafficking, at the intersection of illegal migration, organized crime and prostitution.

Although presented as a new phenomenon, the reality of trafficking exists by being derived from the reality of other social phenomena. These phenomena have already been problematized as specific security issues<sup>16</sup>.

---

<sup>15</sup> M.L. Maqueda Abreu, *Prostitución, Feminismos y Derecho Penal*, Comares, Granada, 2009, p. 89.

<sup>16</sup> C. Aradau (op.cit., note 10) pp. 36 ff.

The European Union and local interventions in this field are not intended to put an end to trafficking and violence against women, but limit those most brutal, i.e. those that represent the most striking aspects of an oppressive gender order. These interventions are held at the symbolic level articulated with the semiotics of emergency and exceptionality. Through this problematization, the governmentality articulates a design of risk-control devices, while this semiotics produces segmentations. The migrant sex-worker who comes to define a specific profile, more and more determined by ethnic components and class, is thus separated from the rest of the women. In this line we can enrol – one of the preferred fields of institutional intervention - campaigns that spread victimization images<sup>17</sup>.

Indeed, standardization of the state of emergency becomes a governmental practice for the integration of differential and flexibly conflicts and shapes with short-term interests. Organized around the victims-criminals discursive binary, trafficking rhetoric also engenders and relies on the dualism between forced and voluntary prostitution, identifying migrant women as victims of trafficking<sup>18</sup>. It also simplifies the identification of free *vs.* voluntary prostitution that leads to the identification of “western” sex- workers as being incapable of self determination and of migrant women as being passive victims<sup>19</sup>.

This particular paradigm of control draws a fuzzy border between human trafficking and illegal migration. The distinction between victims of trafficking and illegal migrants appears as an unstable one, and the suspicion of illegal migration will continue to cover stories of exploitation and abuse. Trafficking is solely related to those who are illegally resident<sup>20</sup>. The remaining women appear as free-choice workers in the sex industry. Trafficking becomes an issue in relation to illegality. Illegal migrants are under suspicion of having been trafficked; legal residents are “uninteresting” for the states in this situation<sup>21</sup>.

Moreover, the rhetoric of trafficking simultaneously closes down and opens up many actions, measures and policies. What is close down is the artificial character of the categories that remain artificially delimited. The women can be exploited in the irregular migration process, which is why the trafficked women emerge through the practices and technologies that the states deploy towards migrants<sup>22</sup>.

---

<sup>17</sup> Marugán/Vega (op.cit., note 6) p. 8.

<sup>18</sup> R. Andrijasevic (op.cit. note 3)p. 394.

<sup>19</sup> Maqueda Abreu (op.cit. note 15) pp.97ff.

<sup>20</sup> A. Iglesias Skulj, *Los delitos contra los ciudadanos extranjeros: cambio de paradigma en el estatuto de la ley penal y en los mecanismos de control*, Universidad de Salamanca, 2009, pp. 689ff.

<sup>21</sup> Aradau (op.cit., note 10) p. 5.

<sup>22</sup> *Ibidem*.

This frame makes sense in the government technologies unfolded by Spain around the migrant sex workers. Indeed, the Plan against Trafficking (2009-2011) assumes the character of priority policy of the Ministry of equality of the Spanish government recently transferred as a Secretary to another Ministry<sup>23</sup>. This programme focuses in the work of NGOs and victims assistance, where "trafficking" rhetoric is charting the protection against trafficking without empirical data to enable a quantitative and qualitative assessment of the phenomenon. In this regard, Minister Bibiana Aído in an interview<sup>24</sup> refers to the plan of the Government as the first time that there is an instrument to fight against sexual exploitation. Continues to claim that migrant women represent the 90% of the prostitutes, and the situation of these women is similar to slavery. However, these statements are different of the data brought by the United Nation (UN) quoted by the journalist. The statistics of the Anti-trafficking Unit estimated that only 1 of 7 of migrant women is victim of trafficking.

In spite of the certainty of the data, while the UN reports indicate inability to produce accurate statistics on the characteristics of the phenomenon, the Minister is not only unable to rebut the studies presented by the journalist who interviewed her, but UN information also. The Ministry of Equal is not requiring any quantitative or qualitative data to set up gender policies; they are based and simultaneously reinforce a ploy repeated *ad infinitum* since the fight against the "white slavery" in the 1950s of the last century. Also asked about the regulation of the prostitution as work, the Minister argued that it wasn't worthy, because the priority of the policies are fighting the slavery, not to regulate the situation of the women that dedicates to prostitution because they are not a priority. Facing the data that the Minister handles, the prostitutes just represent a 10%. What is missing from this discourse is recognition that prostitution and trafficking differ substantively: prostitution is a type of labour, whereas migration and trafficking involve the process of relocation to access a market. Both, empirically and conceptually, it is inappropriate to fuse the two. The slippage between trafficking and prostitution is facilitated by the abolitionism.

### 3. POINTS, LINES, BORDERS: NEW GEOPOLITICAL PERFORMANCE

The classical take on immigration conceptualizes borders in terms of external edges of the state, labour in terms of gendered division between

---

<sup>23</sup> The competence of this Ministry was added to the Ministry of Public Policies and Equality in October of 2010.

<sup>24</sup> Published in El Pais, 7/8/2010.

productive and reproductive work and sovereignty in modern conception of the state<sup>25</sup>. This modern take is becoming theoretically inadequate as it defines another form of state and power. Nowadays, we cannot study this phenomenon with old knowledge tools; we cannot still remain attached to old conceptions as they sanction the distinction between outside and inside, the borders as lines that divides two territories and two nations. Such representations of the borders are misleading as they obscure the transformations that are reshaping borders.

Recently the processes of globalization, especially the case of EU enlargement, have shown great changes in the rationale of the borders. Mezzadra and Neilson point out the ways in which borders have been diffused, dispersed and networked. These authors stress how the borders become spots, zones, nodes, and a whole “deterritorialization” process<sup>26</sup>. All of this geopolitical changes are referred in terms of the proliferation of borders and “delocalization of control” in order to indicate that control, once located at the borders, is now exercised by a variety of means and in a variety of location<sup>27</sup>. Another characteristic of the governmentality refers to the externalization of the policy measures. The current treatment of immigration and trafficking in women are an example of the new political rationality and the technologies of government that organize and reduce its own exercise of power through the mobilization and expansion of their understanding of individuals, of monitoring at distance and the observation by the deployment of forces that operate from a true departure.

The governmentality deploys techniques that create an apparent distance between the institutions and other sectors of social policy decisions. All this points to a new way to regulate and control conflict gender, stressed by deregulation, the decline of resources and existing public policies, destabilization and crisis reactivates the dominant sexual imagery and insecurity and vulnerability to which women are subjected. So it has been a reinterpretation of the feminist liberation in neoliberal key which at the time that aspires to produce legitimacy messages on trafficking in women and gender policy, reinforces the segmentations and stigmatization that feminism had begun to break. It implements a flexible

---

<sup>25</sup> **S. Mezzadra**, *Derecho de fuga. Migraciones, ciudadanía y globalización*, Traficantes de Sueños, Madrid, 2005, pp. 57 ff.; Mezzadra/Neilson (op.cit., note 3); E. Rodríguez, *El gobierno imposible. Trabajo y fronteras en las metrópolis de la abundancia*, Traficantes de Sueños, Madrid, 2003, pp.17 ff.

<sup>26</sup> **Mezzadra/Neilson** (op.cit., note 3)

<sup>27</sup> **D. San Martín Segura**, “El riesgo como dispositivo de gobierno”, in Brandariz García et.al. (eds.), *La globalización en crisis. Gubernamentalidad, control y política de movimiento*, Universidade Invisíbel, Málaga, 2009, pp. 51-68.



administrative logic that is not entirely a technology of control *stricto sensu*, it is the administration and management of power.

The mechanisms of control of immigration, like the Frontex Agency, centres for illegal migrants, visas, are all instances of relocation of power. That is why, the image of the fortress Europe is just a misguided metaphor. Borders do not establish a demarcation between states; on the contrary, nowadays the geopolitical space is re-organized in the form of discontinuities, tensions that are moving through the territory, abandoning the idea of border line, to spread in intensive control points<sup>28</sup>.

Indeed, this do not imply that borders not play an important role at this time, but it shows a change in the sovereignty of the State that calls the intervention of public and private actors to set up a network for the control of immigration. Parallel to these developments we see the gendered division of labour affected by the changes in the productive model. Both planes overlap in a third mutation: citizenship.

The terms “feminization of work” and “becoming-women of production” suggest that the postfordism incorporates a new being central the type of work previously undervalued and delegated to women under the heading of “reproduction of labour”<sup>29</sup>. Consequently, the distinction between work and no work and between public and private has changed too. As Andrijasevic<sup>30</sup> points out “this do not imply that the dualism of production/reproduction no longer exist, but rather reading it exclusively in terms of gendered division of labour does not fully capture the contemporary forms of labour arrangements”<sup>31</sup>. The break in the correlation of subjectivities of the employee and the citizen is the product of changes in production models and migratory flows. This generates different types of citizens and, on the other hand, in the field of labour we can talk about new subjectivities. These changes occur at the same time, but below a centripetal movement of mutual reinforcement.

Thus, connecting with changes in sovereignty, we should redefine the terms of the migration, because borders do not forbid migrants to enter and find work in the states. The postfordist production and bio-political technologies of control can display borders to operate as mechanisms that produce deportability, i.e., stipulate the conditions for the integration of migrants in the labour market and in the black economy. It breaks with the assumption of states that illegality is something that comes from outside of the control systems, and can be controlled and managed from strict laws and the establishment of quotas for jobs. Migrants are predetermined to

---

<sup>28</sup> Ibídem, p. 47; Iglesias Skulj (op.cit., note 20), pp. 290ff.

<sup>29</sup> Nicolás Lazo (op.cit., note 9), p. 44.

<sup>30</sup> (op.cit., note 3) p. 397.

<sup>31</sup> Mezzadra/Neilson (op.cit., note 3); Rodríguez (op.cit., note 25) pp. 85 ff.

labour recruitment schemes, however under this legal frame, the admission to a State does not guarantee the stability and permanence of the legal status, since the postfordism is characterized by cause ripples that make the migrant moves between legality and illegality in the same migration process.

In this sense, transnational sovereignty does not operate along the inclusion/exclusion model, as it regulates flows not populations. It attempts to decrease the flow of migrants and regulate its intensity following the crisis and the emerging reconfiguration of the labour markets. While populations can be included or excluded or differentially included in the states, migration flows are “organically” related to the inner workings of labour markets and core elements of production process. In a nutshell, transnational sovereignty works together with a transnational reorganization of labour that can only in part be regulated by the nation State<sup>32</sup>.

#### **4. POLICIES, PROFILING, WOMEN, VICTIMS**

The international instruments set in place to counter trafficking (such as the Palermo Protocols) have been criticized for actually facilitating the cooperation between states to prevent irregular migration, rather than protecting or giving restitution to the victims of crime or migrants in situation of labour exploitation. Building on this critique of immigration control and its challenge to the category of the “victim”, we try in this paper to develop a more nuanced reading of the anti-immigration/sex-trafficking nexus in order to broaden the understanding of anti-trafficking policies beyond merely being tools for the straightforward exclusion of migrants, or for their inclusion under the respective headings of “agents” an “victims”.

Accordingly, policy measures are devised to assist victims of trafficking, but not those sex-workers who find themselves in exploitative working conditions. Several UE states have long or short term victim protection schemes. These are commonly embedded in the normative concept of victimhood comprised of forced migration, coercion and prostitution and economic exploitation. Consequently those women who fall out from the category of the “proper” victim are denied legal protection and became vulnerable to deportation<sup>33</sup>.

---

<sup>32</sup> Iglesias Skulj (op.cit., note 20) pp. 336 ff.

<sup>33</sup> Andrijasevic (op.cit., note 3) p. 394; In relation to this, see K. Bumiller, *In an abusive State*, Duke University Press, 2008, pp. 64 ff. The author grasps the importance of the growth of administrative control and its relation the feminist campaign against sexual violence, which could be transplanted to the trafficking, under the neoliberal government the focus of the penal welfare apparatus is on victims. All of these governmental technologies contributed to

Castel underlines that in these policies there is no longer a relation of immediacy with a subject *because there is no longer a subject*. What the new preventive policies primarily address are no longer individuals but factors, fluids instead of individual, showed as statistical correlations of heterogeneous elements. They build up the subject of intervention, and reconstruct a combination of factors that produce risk, using a rank of probabilities and profiles; that is to say, it is enough to display whatever characteristics the specialists responsible for the definition of preventive policy have constituted as risk factors<sup>34</sup>.

This is a system that deals with partial aspects that are required to “construct the objective conditions of emergence of danger, so as then to deduce from them the new modalities of intervention”<sup>35</sup>. This construction indicates the shift from dangerousness to risk entails a potentially infinite multiplication of the possibilities for intervention.

Furthermore, an analysis of the *dispositif* of security allows us to see this changing political landscape. Trafficking policies normalize the hierarchically organized access to EU labour market and citizenship. The trafficked women become integrated with preventive strategies of risk and women are constituted as specific categories of victims, pathological beings that are themselves risky rather than exposed to risks<sup>36</sup>. The representation of the victim and of the abuse of rights made possible by her vulnerability activates technologies of prevention. Preventing trafficking relies on interventions that delimit and categorize “high risk” groups, groups which are at risk of being trafficked. Trafficked woman are profiled for preventive purposes, and it is these specific profiles, developed in conjunction with psychological knowledge, that make possible the constitution of these women’s identity as a subject of governmentality of human trafficking.

This representation of vulnerability is at first sight consonant with the unifying representations of victims as suffering bodies, as the risk of trafficking is taken to be a risk to women’s well being. Yet, the representation of trafficked women insidiously mutates into a risk to the state/society, as a group at risk thought to embody a permanent virtual danger that could irrupt in the future. The identification and calculability of risk depend on the construction of risk profiles. Studies of risk practices have emphasized the construction of biographical profiles of human populations for risk management and security provision<sup>37</sup>.

---

the growth of administrative power exercised over clients who experience violence to turn these women in successful survivors.

<sup>34</sup> R. Castel, “From dangerous to risk”, in Burchell et.al., *The Foucault effect*, University of Chicago Press, Chicago, 1991, pp. 281-298.

<sup>35</sup> Ibidem, p. 288

<sup>36</sup> Aradau (op.cit., note 10), p. 98.

<sup>37</sup> Aradau (op.cit., note 10), p. 98.

In this sense, short-term resident permits, and the return to the country of origin, and the psychological therapies only can be read as the risk management of illegal migration which subverts the humanitarian approach and subsumes de the NGO's discourse to the logic of security practices. The potential risk of women migrating and being re trafficked is to be contained and prevented; they will be surveyed and disciplined, subjected to trauma therapy with the purpose of turning them into subjects able to monitor their own risk. Risk technologies have made possible the specification of the victim – previously object of pity- as inherently and continuously “risky” and have modified the emotional promise of pity into an abstract suspicion of risk. Based on the aggregate of risk factors, vulnerability is traversed by imputations of dangerousness<sup>38</sup>.

The trafficked women represent a paradoxical category where converge three different technologies of government. As illegal migrants, trafficked women are still to be deported. As delinquents, they are to be subjected to disciplinary technologies. As victims of trafficking, women still have to abide by restrictive criteria defined as part of their “reintegration and rehabilitation” programmes. As psychological vulnerable, women are to be helped through education and various forms of physiological counselling to become self-sufficient autonomous subjects who acts in accordance with governmental premises. Victims of trafficking are expected to develop a new image of them, testify against their traffickers, return to their origin countries and undertake productive work.

Women as traumatized are the second depoliticizing move in the governance of trafficking. As they are traumatized and disordered subjects, their actions cannot be- considered as endowed with political meaning<sup>39</sup>. It is precisely their status as victims that differentiate them from migrant women's mobility and the EU's attempt to regulate migrants' circulation as a way of governing spaces no longer enclosed by its external borders. Women's bodies and migrant women's sexuality in particular, are sites of struggle over redefinition of citizenship that accompanies the formation of the enlarged European space.

Trough a biopolitical perspective the disjuncture between the State and citizenship are resulting in the proliferation of subject positions that no longer fit the inclusion/exclusion dichotomy. If important features of citizenship have changed, then there is a need to consider that its subjective dimension has also changed. As this paper tried to highlight through the trafficking in women, the relevance of emerging migrant subjectivities lies in their importance in redrawing the borders, not only of the nation states but gender norms.

---

<sup>38</sup> Ibidem, p. 103.

<sup>39</sup> Ibidem, pp. 108-113; Marugán/Vega (op.cit., note 6) p. 4.

## **5. CONCLUSIONS**

Although presented as a new phenomenon, the reality of trafficking exists by being derived from the reality of other social phenomena. These phenomena have already been problematized as a specific security issues. By placing human trafficking within the social and political context from which it is derived – that of illegal migration, organized crime, prostitution and human rights abuses – there is a security construction that holds together these apparently contradictory elements. The contradictions that subtended the description of trafficking and the measures taken to tackle it emerge from the very location of the phenomenon of trafficking.

Human trafficking and migration are seen here as inseparable realities. Subsuming human trafficking under illegal migration has been challenged by the accession of Central and Eastern European Countries to the EU. Within the migration framework, the understanding of human trafficking is driven by a process of categorization. Categories of illegal, irregular, undocumented or simply deceived migrants overlap and are refined to adequately express the “reality” of trafficking. The debate concerning the conceptual distinction between smuggling and trafficking is based on such attempts at categorization. This approach takes as given the security concerns that inform the representations of illegal migration and the interventions to manage the phenomenon. Anti-trafficking policies are just subcategories of those targeting illegal migrants. Indeed, this framing operates in a binary sense: victims against traffickers. In Spain, just a 15% of the cases of trafficking involved criminal organizations. Organized crime is already located in a securitized discourse which vectors human trafficking and establishes logic of suspicion for trafficked women of not being genuine victims.

Human trafficking has also provided a new place for debates about prostitution. Can prostitution be freely chosen? For some institutional feminist as prostitution is deemed to be a degradation that no normal women would consider, the question of voluntary or forced prostitution becomes irrelevant. These statements are based on the assumption that a woman’s consent to undertake sex work is meaningless, that prostitution can never be a matter of personal choice and a form of work.

Through this problematization, the governmentality articulates a design of risk-control devices, while this semiotics produces segmentations. The migrant sex-worker who comes to define a specific profile, determinate by ethnic components and class, is thus separated from the rest of the women. In this line we can enrol – one of the core fields of institutional intervention- campaigns that spread victimization images. In Spain, anti-

trafficking measures have so far incurred more harm than good to sex workers. Repeated raiding by the police has led to detention of all foreign prostitutes under the suspicion of having been trafficked.

The subjective positions of sex workers and victims of trafficking become incompatible in a discourse of security. The police are dangerous for sex workers; anti-trafficking measures have dangerous effects. Turning trafficking into a problem of prostitution actually creates vulnerabilities and insecurities for sex workers and those irregular migrants that are being sent to a detention centre waiting for deportation.

The current treatment of immigration and the trafficking in women are an example of the new political rationality and the technologies of government that organize and reduce its own exercise of power through the mobilization and expansion of their understanding of individuals, of monitoring at distance and the observation by the deployment of forces that operate from a true departure.

The governmentality deploys techniques that create an apparent distance between the institutions and other sectors of social policy decisions. All this points to a new way to regulate and control conflict gender, stressed by deregulation, the decline of resources and existing public policies, destabilization and crisis reactivates the dominant sexual imagery and insecurity and vulnerability to which women are subjected.

All of these characteristics make possible the constitution of these women's identity as a subject of governmentality of human trafficking.

## **6. BIBLIOGRAPHY**

1. **AFSHAR H.** (1999) "Mujeres y desarrollo: una introducción", in P. VILLOTA (ed.) *Globalización y Género*, Ed. Síntesis, Madrid.
2. **ALONSO RODRÍGUEZ N.** (2004) "Emigración y Desarrollo: implicaciones económicas", *La Insignia*, October/November, [www.lainsignia.org](http://www.lainsignia.org).
3. **ANDRIJASEVIC R.** (2009) "Sex on the move: Gender, subjectivity and differential inclusion", *Subjectivity Issue* 29, [www.palgrave-journals.com/sub/](http://www.palgrave-journals.com/sub/)
4. **ARADAU C.** (2008) *Rethinking trafficking in women. Politics out of Security*, Palgrave, New York.
5. **ASKOLA H.** (2007) *Legal Responses to trafficking in women for sexual exploitation in the Europe Union*, Hart Publishing, Oxford-Oregon.
6. **AZIZE Y.** (2004) "Empujar las fronteras: mujeres, migración internacional desde América Latina y el Caribe", in R. Osborne (ed.), *Trabajador@s del sexo. Derecho, migraciones y tráfico en el siglo XXI*, Bellaterra, Barcelona.

7. BRENTS B.G., SANDERS T. (2010) "Mainstreaming the sex industry: Economic Inclusion and Social Ambivalence", *Journal of Law and Society*, Vol. 37, nº1, March.
8. BUMILLER K. (2008) *In an abusive State*, Duke University Press, New York.
9. DE GENOVA N. (2002) "Migrant illegality and deportability in everyday life", *Annual Review of Anthropology* 31.
10. DONZELOT J. (1991) "The mobilization of society" in BURCHELL/GORDON/MILLER (eds.), *The Foucault effect: Studies of governmentality*, Hemel Hempstead, Harvester Wheatsheaf.
11. FOUCAULT M. (1979) "On Governmentality", *Ideology and Consciousness*, (autumn) 6.
12. GIRON A. (2009) *Género, globalización y desarrollo*, CLACSO, Buenos Aires.
13. IGLESIAS SKULJ A. (2009) *Los delitos contra los ciudadanos extranjeros: cambio de paradigma en el estatuto de la ley penal y en los mecanismos de control*, Universidad de Salamanca, (PhD.Thesis).
14. KEMPADOO K. (2005) "From Moral Panic to Global Justice", in KEMPADOO, K. (ed.) *Trafficking and prostitution Reconsidered. New perspectives on migration, sex work, and human rights*, Paradigm Publishers, London.
15. MARINIS CÚNEO P. (1999) "Gobierno, gubernamentalidad, Foucault y los anglofoucaultianos (un ensayo sobre la racionalidad política del neoliberalismo)", in RAMOS TORRE/GARCÍA SELGAS (eds.) *Globalización, riesgo y reflexividad. Tres temas de la teoría social contemporánea*, CIS, Madrid.
16. MAQUEDA ABREU M.L. (2009) *Prostitución, Feminismos y Derecho Penal*, Comares, Granada.
17. MARUGAN B. AND VEGA C. (2008) "Acción feminista y gubernamentalidad. La emergencia pública de la violencia contra las mujeres", [http://casosmosis.acracia.net/wp2pdf/texto\\_de\\_caosmosis.pdf](http://casosmosis.acracia.net/wp2pdf/texto_de_caosmosis.pdf)
18. MEZZADRA S. (2005) *Derecho de fuga. Migraciones, ciudadanía y globalización*, Traficantes de Sueños, Madrid.
19. RODRIGUEZ E. (2003) *El gobierno imposible. Trabajo y fronteras en las metrópolis de la abundancia*, Traficantes de Sueños, Madrid.
20. MEZZADRA S., NEILSON B. (2008) "Border as method, or the Multiplication of labour, available in <http://eicpcp.ent/transversal/0608/mezzadraneilson/en>.
21. SAN MARTIN SEGURA D. (2009) "El riesgo como dispositivo de gobierno", in BRANDARIZ GARCIA et.al. (eds.), *La globalización en crisis. Gubernamentalidad, control y política de movimiento*, Universidade Invisíbel, Málaga.
22. WEITZER R. (2010) *The movement to criminalize sex work in the United States*. *Journal of Law and Society*, vol. 37, nº1, March.