

Trafficking the Union: (Dis)locating the Political in European Integration Theory

by

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ABSTRACT

This thesis argues that dominant European integration theory's definition of the political limits our understanding of complex social policy and issues that arise in and around the European Union (EU). Due to its state-centric, rational, utility-maximising foundation, if used exclusively, integration theory tends to push to the margins concepts/issues such as gender, ethnicity, class, et cetera.

A discursive examination of the EU's policy environment on the trafficking of women reveals that studying the policy process through integration theory alone would not address the conditions of possibility for coordinated member state action on the issue. Namely, trafficking is approached in the EU policy environment as a matter of illegal migration where suggested remedies are stricter penalization, tougher immigration laws and more effective prosecution of traffickers. This approach involves several assumptions about the nature of trafficking and its causes. Trafficked women are rendered powerless and voiceless by their characterisation as naive victims. By focusing on trafficking as the core problem, rather than a symptom of larger structural problems, this approach deflects attention away from the root causes of trafficking such as the vulnerable positions of women due to general financial, social and legal insecurity of trafficked women in their states of origin.


(continued...)

An approach centred solely on integration theory would not allow such observations to come to the fore as it would be concerned with external dimensions of the policy process such as gains or losses of relative power of the actors and institutions involved. A network model of integration theory is advocated as an alternative which focuses on the fluidity of functional and regional connections among units or actors, thus de-centring the traditional role of the state. Political legitimacy is grounded instead in participation of those people and relations in decision-making where multiple identities are emphasised.

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When quotations appear around a single word or phrase and it is my view. The quotes indicate that the word may have or imply several different meanings or may be used strategically by its proponents.

Table 1: Features of Intergovernmentalism and Neofunctionalism 12

Commission	Abbreviated form of the European Commission
Communication	Communication from the European Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation, 20 November 1996
Community/ European Community	Terms previously used to describe the EU. I will generally use EU or Union as these are the most recent, but when discussing legislation that refers to the European Community, I will use the terms employed in that legislation.
Council	Abbreviated form of Council of the European Union
EC	European Community
EU	European Union
Europol	European Police Office
GAATW	Global Alliance Against Traffic in Women
integration theory	Abbreviated form of European integration theory
IR	international relations
LIEN	Link Inter European NGOs - EU programme where European and Russian NGOs cooperate in the joint effort to ensure a better social integration among disadvantaged target groups. Tacis (see definition below) is the major funding body for LIEN's projects.
Maastricht Treaty	Treaty on European Union, signed in Maastricht on 7 February 1992

Terms and Abbreviations

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Maastricht Treaty	Treaty on European Union, signed in Maastricht on 7 February 1992

NGO	non-governmental organisations
Parliament	Abbreviated form of European Parliament
policy environment	The collection of EU instruments, conferences, official documents, etc. on trafficking in women.
STOP	Sexual Trafficking of Persons - EU programme to eliminate trafficking in persons.
Tacis	EU initiative to provide grant-financed technical assistance to support the process of transition to market economies and democratic societies in former USSR republics.
TEC	Treaty Establishing the European Community, signed in Rome on 25 March 1957
TEU	Treaty on European Union, signed in Maastricht on 7 February 1992
trafficking	Abbreviated form of trafficking in/of women. If I refer to different forms of trafficking, such as trafficking in drugs, I will write this in full. Thus, whenever "trafficking" stands alone, it should be taken to mean trafficking in/of women. (The same applies for variants on trafficking such as traffic, trafficked, and trafficker.)
UK	United Kingdom
Union	Abbreviated form of European Union
Vienna Conference	European Conference on Trafficking in Women, Vienna, 10-11 June 1996

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Introduction

In a special issue of *Women's Studies International Forum* on the European Union (EU), Rosi Braidotti wrote that it is the task of feminists to “explode the empty rhetoric of the European Community [EC] and concentrate on the analysis of the conditions that may lead to the creation of shared cultural and political space.”¹ While I share in the spirit behind Braidotti’s call to action, I take issue with her characterisation of the rhetoric of the EC as “empty”. Quite the contrary, the rhetoric is rich, both in quantity and quality, and has very non-vacuous effects in its constitution of relationships of authority in the drawing and re-drawing of Europe. This thesis will probe that rhetoric in the form of European integration theory² and to question its position as a primary or exclusive analytical tool used to interpret the EU.

Many academics in the field of European Studies have instinctively rejected integration theory due to its marginalisation of issues such as gender, culture, ethnicity, class, and identity.³ However commonly claimed, rarely is it asked how integration theory

¹Rosi Braidotti, “The Exile, the Nomad and the Migrant - Reflections on International Feminism,” *Women’s Studies International Forum* 15.1 (1992): 8.

²I refer to integration theory as a single body of theory only for the sake of expediency. It is actually a diverse and varied literature. I will make the case here that the way integration theory is dominantly used lends itself to represent in common ways. It is this common ground which leads me to use the singular term.

³Authors such as Braidotti (note 1), Catherine Hoskyns, *Integrating Gender: Women, Law and Politics in the European Union* (London: Verso, 1996) 17; Erik Oddvar Eriksen and John Erik Fossum, “The European Union and Post-national Integration,” *ARENA Working Papers* (September 1999), cited 23 September 1999 <http://www.sv.uio.no/arena/publications/wp99_9.htm>; and, Anna Leander and Stefano Guzzini, “European Economic and Monetary Union and the Crisis of European Social

succeeds in accomplishing this marginalisation, or further, why it remains a dominant body of theory for studying the EU. I will argue here that integration theory's definition of the political is limited and as such, narrows the range of its subjects of inquiry to areas suited for economic, utility-maximising and rationalist thinking. By examining the problem of the trafficking of women and the EU's policy environment surrounding that issue, I aim to illustrate how integration theory misses key elements of complex problems that would contribute to a deeper understanding of how the EU is instantiated and at what costs to whom. More specifically, the EU's trafficking policy may be studied as a positive example of integration whereby member states form policy collectively that and renders mutual dependence greater in the fields of law enforcement and judicial coordination. However, to do so exclusively would be to lose sight of the conditions of possibility for it: namely, trafficked women are presented as naïve, without power of self-determination, or voice of authority. Furthermore, the root causes for trafficking, women's often insecure and unpredictable financial, social and legal situations, are ignored, so any response that does not address these issues will at best, be only moderately successful at stemming the problem, and at worst, will do further harm to the women involved.

Subsidiary Arguments

In gathering my research for this project, an interesting subset of questions began

Contracts," *The Politics of Economic and Monetary Union*, eds. Petri Minkkinen and Heikki Patomaki (Helsinki: The Finnish Institute of International Affairs, 1997) 151. These are discussed in greater detail in Chapter One.

to emerge concerning feminist theory. As a student of both European integration and feminist theory, I am interested in questions that affect women in Europe, but I am also interested in how these bodies of theory can contribute to each other because they are seldom brought together. When I began to consider the EU's policy on trafficking, I turned to feminist theory on the subject to gather insights in helping to overcome policy directions that I found particularly problematic. In so doing, I also found that feminist groups were instrumental in getting trafficking on the EU agenda and that these were heavily involved in drafting a conference report that formed the basis of the EU legislation that followed. However, as I read into the feminist literature on trafficking and prostitution I did not find the antidotes to the problems I perceived in the EU's policy, but rather the very problems I was seeking to solve. Thus, a sub-argument of this project is that dominant feminist and integration theories share similar characteristics in terms of their shared dichotomous frameworks that enable certain forms of authority to be legitimised (primarily state authority) at the expense of others (ironically, that of trafficked women).

Trafficking in women was chosen as the project's case study for a few reasons. First, it fits with my interest in issues that are salient for women and second, it is an area that is relatively new and increasingly important in EU policy making. As the European Council's 1997 Joint Action on trafficking states: "...whereas trafficking in human beings and sexual exploitation of children may constitute an important form of international organised crime, the extent of which within the European Union is becoming increasingly

worrying."⁴ The EU has traditionally experienced difficulty in negotiating matters concerning immigration within its institutional framework. The Schengen and Trevi negotiations occurred away from EU institutions and reflected more intergovernmental arrangements that were criticised for their lack of transparency. The passing of the Treaty of Amsterdam brought these agreements directly under the EU auspices and signaled a commitment to making immigration issues central to the Union's projects. For this reason, trafficking is a crucial issue for the EU in that it will necessarily fall under Union competency in the coming years. How it is handled will certainly have far reaching effects for the status of illegal migration, refugee and asylum policies in the EU. In addition, trafficking will affect integration as it is now included in the EU's response to every recent bid for outside accession. As a condition for the EU's accession partnerships with Malta, Cyprus, Slovenia, the Czech Republic, Bulgaria, Lithuania, Estonia, Latvia, the Slovak Republic, Romania, Poland and Hungary, all have been instructed at minimum to "continue the fight against traffic of women and children."⁵

⁴European Council, *Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children*, preamble.

⁵European Council, *Council Decisions 1999/850/EC to 1999/859/EC of 6 December 1999 on the principles, priorities, intermediate objectives and conditions contained in the accession partnerships with Hungary, Poland, Romania, Slovakia, Latvia, Estonia, Lithuania, Bulgaria, the Czech Republic and Slovenia respectively*. And, *Proposals for Council decisions (adopted 6 December 1999) on the principles, priorities, intermediate objectives and conditions contained in the accession partnerships with Cyprus and Malta*.

Chapters Overview

Chapter One seeks to answer "What is 'the political' in integration theory?". It places integration theory in the larger tradition of international relations and then explores the two dominant strands of intergovernmentalism and neofunctionalism. Through an examination of the shared assumptions between the two strands, it contests their putative placement at opposite ends of the theoretical scale. It then seeks to address the political in terms of the consequences of the liberal, rationalist, utility-maximising logic underpinning dominant integration theory. The chapter ends with a discussion of various theorists' rejection of integration theory precisely because it drives to the fringes important questions concerning complex social and political phenomena. The purpose of this chapter is to reveal the sometimes hidden rationality of integration theory that permits that type of marginalisation to occur.

Chapters Two and Three work together to address crucial issues involved in the EU policy on trafficking in women that would be inaccessible to an approach centred in integration theory. Chapter Two examines the dominant feminist debate on trafficking and prostitution and highlights some of the problematic rationality therein. The two principal camps, abolitionists and rights advocates, are presented and discussed in terms of their promulgation of specific binary relationships: trafficking versus migration, forced versus voluntary trafficking/prostitution; prostitution versus sex work; and victims versus whores. As stated above, mainstream feminist theory on trafficking and prostitution was initially consulted as a foil to integration theory, but in the end actually mirrors some of its problems in terms of limiting our understanding of these issues. It was also found that this type of feminist theory informed the EU policy on trafficking. This chapter,

therefore, establishes a basis from which to draw out similarities between integration theory and feminist theory, as well as providing a platform for critique in terms of an exploration of the conditions of possibility for integration in the realm of trafficking policy.

Chapter Three endeavours to perform a discursive analysis of the EU's policy on the trafficking of women. It begins with examining the scope of the problem in the EU and leads into a discussion on the competencies of member states versus the EU institutions involved in addressing the problems associated with trafficking. The chapter then focuses on the European Commission's 1996 Communication on trafficking in women which forms the basis of the EU policy to come. It examines the language used in the document on prostitution and sexual exploitation; the irrelevancy of trafficked women's consent and the implications for the forced versus voluntary distinction discussed in Chapter Two; and finally the gradual shift in the characterisation of trafficked women, first as women, second as victim, and third as witness according to the stages of her traffic and the impact this language has on our understanding of the issue and resultant policy. The discussion then moves to a brief presentation of the post-Communication instruments as well as the non-legal instruments used to combat trafficking in the EU. This chapter aims equally to reveal what *is* defined in the EU policy environment on trafficking, and what *is not* said on the matter. It seeks to show what is at stake in defining the issues as it does with the aim of revealing that a repressive approach to trafficking has been adopted in the EU that better serves the interests of the state rather than those of the women involved, which it purports to protect.

The fourth chapter seeks to draw the first three together by way of comparing

their similarities. It begins with an exploration of the seemingly opposite goals of feminist positions on trafficking which focus on the interests of the trafficked woman, and the EU's repressive policy goals which relate to the interests of the state in terms of protection from unwanted forms of migration. Despite their apparently incompatible premises, their responses to the problem are similar. The next section explores the limits of integration theory when applied to trafficking and relates this to the similarity in feminist and EU approaches. The chapter concludes with some suggestions as to how to overcome the impediments of these approaches with an alternative type of integration theory that instead of focusing on such a narrow set of assumptions about the political, is more sensitive to the diversity of questions that need to be posed. This is applied specifically in a recommendation on how to approach trafficking policy so that it deals with the problem more effectively by keeping trafficked women's concerns and positions at the fore, thereby coming closer to addressing trafficking's primary causes.

The project's conclusion will then summarise the findings of the chapters as they relate to the core problem and sub-argument.

Contribution to the field

This thesis will hopefully contribute to the fields of European integration theory, feminist theory, and policy-making on trafficking in women. In terms of integration theory, I aim to offer different ways of approaching the EU that would critically assess its integration by providing grounds for an examination of the conditions of possibility for integration in any policy area, particularly as they relate to complex social and political phenomena. For feminist theory, I hope to bring to the fore an approach that considers the

needs and authority of the women involved in trafficking to further elucidate why trafficking happens and what is at stake for its participants. For trafficking policy, I hope to show how such an approach may better serve both the interests of the women involved and those of the state by directing attention to the root causes of trafficking and thereby combating the problem head-on, rather than focusing on its symptoms. These ideas taken separately build on the work of other theorists in all three fields. It is through the social, conjoining of these elements that I hope to provide a fresh contribution to these fields.

intergovernmentalism and neofunctionalism. These two "grandfathers" of integration theory are typically cast at opposite ends of the theoretical spectrum. Through examining their common assumptions, they are revealed to be more similar than divergent. Their ability to account for complex ascriptions of authority/power is questioned and testimony of various academics who disregard integration theory in the context of the social and political economy is presented. I will argue that given dominant integration theory's capacity to marginalise important questions around gender, culture, identity, etc., a new theoretical approach should be taken that better manages these issues.

1.2 Integration Theory and International Relations

A student of European integration and international relations (IR), interested in the trafficking of women, I began to think of the issue in the terms offered to me by the standard rhetoric of the fields. The approaches begin with a theory of what that Union is, how it came to be, and how it continues to evolve. From its inception in the European Coal and Steel Community, academics have theorised the EU in the context of the well-

Chapter One: What is "the Political" in Integration Theory?

1.1 Introduction

This chapter will define the political in integration theory by examining its hidden assumptions and discussing its applicability to specific areas of study (economic, social, etc.). It begins by introducing the dominant forms of integration theory, intergovernmentalism and neofunctionalism. These two "grandfathers" of integration theory are typically cast at opposite ends of the theoretical spectrum. Through examining their common assumptions, they are revealed to be more similar than divergent. Their ability to account for complex ascriptions of authority/power is questioned and testimony of various academics who disregard integration theory in the context of the social and political economy is presented. I will argue that given dominant integration theory's capacity to marginalise important questions around gender, culture, identity, etc., a new theoretical approach should be taken that better manages these issues.

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established parameters of international relations. European integration theory has become that body of academic literature that seeks to explain the *rapprochement* of member states in the framework of the EU by examining principal actors, their policy aims, institutional requirements and mechanisms of integration (such as intergovernmental bargaining or functional spillover). Its emergence out of IR is important to note because the possibilities and limitations of integration theory are still largely determined by the familiar tenets of IR's liberalism, realism and to a lesser extent, critical Marxism.

Although the field of European integration theory is now beginning to open up to new and challenging imageries and discourses, it is still very much rooted in IR, international political economy, economics and legal studies. As a result of some of the assumptions shared by these prominent disciplines and manifested in integration theory, it can only be applied in certain contexts due to its promulgation of a specific location and version of political authority, action and consequence. Politics remains chained to the state and set in the framework of clearly defined levels of analysis where actors are rational, realist, liberal, and utility-maximising.

1.3 Mediating the Middle: Intergovernmentalism vs. Neofunctionalism?

The field of integration theory is dominated by two principal approaches positioned on opposite ends of a putative theoretical scale. On one end, neofunctionalism holds that especially in areas of "low politics", as states agree to aggregate authority in the form of supranational governance in one functional arena, the need to deal with other related issues will engender a functional spillover, so integration deepens.

An example here lies in the Union's drafting of parental leave policies in its larger goal to eliminate competitive advantage in order to remove barriers to trade among member states. Unexpectedly, the issue of differentiated parental leave periods arose as a potential competitive advantage where businesses might be more attracted to states with miserly leave periods as opposed to those with generous leave benefits. Parental leave is somewhat of a crossover issue between the economic and social realms. Because social policy is generally left under the jurisdiction of individual member states, the fact that it was being negotiated jointly in the EU was remarkable. The spillover in this case occurred from the economic to the social, an area originally not intended to fall under EU purview. As a result, a Union-wide parental leave policy was established despite its social implications.⁶

On the other end of the theoretical spectrum lies intergovernmentalism. Here, the principal actors are member states, and of most importance to the integration process are the interests of the most powerful states. It is argued that states will agree to amalgamate their sovereignty on matters where their interests are better served supranationally. Generally, the big treaties of the European Community (EC) are seen to be examples of intergovernmental bargaining. The following table (Table 1) summarises the main principles of intergovernmentalism and neofunctionalism; it is followed by a more in-depth presentation of their main tenets.

⁶For a more detailed discussion on the EU parental leave policy, see Gerda Faulkner, "The Euro-Agreement on Parental Leave: Towards Corporatism in European Social Policy?," *Huitième colloque international de la revue, Politiques et management public*, Paris: 20-21 June 1996.

Table 1: Features of Intergovernmentalism and Neofunctionalism⁷:

	Intergovernmentalism	Neofunctionalism
Actors	member state governments, especially most powerful states - Germany, France, Britain	political community (institutions, member states, interest groups)
Policy Aim	minimise impact of European policy on domestic affairs; zero-sum pursuit of external goals	coalitional arrangements; upgrading common interest; interdependence
Mechanisms of Integration	'lowest common denominator' bargaining; transaction cost reduction; pooling sovereignty	'spillover' (integration in one area spurs integration in adjacent areas)
Ideational Components	international demand for outcomes and international supply of outcomes	acculturation of national elites (multi-partner alliances are most effective form of management)

Intergovernmentalism

The principal actors according to intergovernmentalism are member states, or national governments. In the European context, member states are constrained by their domestic political situations. National interests, organisations and individuals will determine the policy objectives of each member state. The most powerful member states, specifically France, Germany, and Britain determine policy and further advance or

⁷The sources for the table are: Intergovernmentalism - Andrew Moravcsik, "Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community," *International Organization* 45 (Winter 1991): 28; Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies* 31.4 (December 1993); Neofunctionalism - Jeppe Tranholm-Mikkelsen, "Neofunctionalism: Obstinate or Obsolete? A Reappraisal in the Light of the New Dynamism of the EC," *Millennium* 20.1 (1991).

stall integration.⁸ Institutions are seen as necessary tools for the functioning of the Union, but are ultimately subject to the will of member states. The notion of sovereignty is essential to intergovernmentalist thought. While some degree of sovereignty is necessarily sacrificed upon entering the Union (i.e. trade is restricted by the guidelines established within the EU), the preservation of sovereignty within the Union framework is the driving force of policy-making.

Integration is rendered possible by the will of the most powerful member states. Key to this position is the notion of “lowest common denominator”⁹ bargaining. This tool allows states to exchange information or advantages which may not have otherwise been achievable, while maintaining the greatest amount of national interest by adversely affecting the fewest possible participants. Further, Hoffmann contends that states will not enter into an arrangement that might threaten their ability to exert force and exact power, despite a potential value-added such as welfare-maximisation.¹⁰ Intergovernmentalists stress the use of the veto as an important lever which preserves member state autonomy.

Intergovernmentalists reject the automaticity of neofunctional spillover (described below). They contend that integration occurs only at the behest of national governments, and not due to the daily functioning of the Union. Intergovernmentalists account for factors that affect member states, but are not directly pursued by them as resulting from an initial decision by member states to be subject to various regulations essential to the

⁸Moravcsik, “Negotiating the Single European Act...” 28.

⁹Ibid, 25.

¹⁰Stanley Hoffmann, “Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe,” *Daedalus* 95.2 (Summer 1966): 884.

continuance of the Union. In other words, they are seen as trade-offs for the information made available through the supranational arrangement.

In the cases of intergovernmentalism, the potential for an ideational component rests in national preferences. Moravcsik's "liberal intergovernmentalism" consists of the international demand for outcomes (liberal), versus the international supply of outcomes (intergovernmentalist). "Demand" refers to national preference formation which identifies potential areas for *rapprochement*, and "supply" refers to the process of interstate negotiation to answer those demands.¹¹ This framing of national preference formation differentiates Moravcsik from the original proponents of intergovernmentalism like Hoffmann. Moravcsik traces the origins of state preferences to economics and domestic sources where traditional intergovernmentalism looks exclusively at interstate relations and motivations: Moravcsik asserts, "An understanding of domestic politics is a precondition for, not a supplement to, the analysis of the strategic interaction among states."¹² While this statement shows great potential to account for the ideational forces which shape domestic actors, and thus are brought to the European level, intergovernmentalism seems generally to focus on the actors, institutions and external policy goals which affect EU relations among states and their policy outcomes. This is evidenced by the emphasis on minimizing the impact on domestic affairs while pursuing external policy goals - the emphasis, therefore, is not upon understanding the forces behind a particular EU policy, but rather on the degree of impact on individual member states.

¹¹Moravcsik, "Preferences and Power..." 481.

¹²Ibid.

Neofunctionalism

The principal actors implicit in the integration process according to neofunctionalism are “nationally constituted groups with specific interests and aims, willing and able to adjust their aspirations by turning to supranational means when this course appears profitable.”¹³ As integration deepens, supranational institutions, jurisdictional and legislative powers eventually assume precedence and power over national structures.¹⁴

The most distinctive feature of neofunctionalism is its approach to the process of integration known as spillover or spillback. Basically, this entails a sort of automatic chain reaction of processes within one area of integration which causes further integration in other areas. The three types of spillover are: (1) functional, where due to the economic and industrial similarity of nations, independence and isolation are impossible. Interdependence, therefore is inevitable and as interdependence grows, integration is furthered. In order to deal with problems which arise out of the integrated system, further integration will be necessary; (2) political, where due to the pluralist political tradition in European countries, their leaders will seek to engage in a supranational arrangement which will better serve their interests (interest groups are perceived to act in similar ways). This is a matter of the acculturation of national elites which will teach them that coalitional or multi-partner alliances will be the most effective method of management; (3) cultivated, where supranational institutions will be accorded more powers, and thus

¹³Ernst B. Haas, The Uniting of Europe: Political, Social and Economical Forces 1950-1957 (London: Stevens & Sons, 1958) xiv.

¹⁴Tranholm-Mikkelsen, “Neo-functionalism: Obstinate or Obsolete?...” 3.

furthering integration, because of a need to facilitate agreement with the aim of “upgrading the common interest”.¹⁵ Furthermore, supranational institutions will contribute to the formulation of common policy.

All of these elements contribute to the implication of neofunctionalist thought which states that the relationship between degree of integration and salience of national sovereignty is measurable and indicative of neofunctional processes. That is, if national sovereignty is shown to be eroded, then neofunctional processes are at work because governments are increasingly restricted from acting independently outside the Union. In other words, as decisions are removed from the scope of national governments (either through supranational bureaucratic, institutional or legal mechanisms), neofunctional spillover has occurred and will most likely continue to occur.

Haas identifies “political community” as a potential end result of integration. The community consists of a convergence of nation states, supranational institutions and political actors and is achieved when “specific groups and individuals show more loyalty to their central political institutions than to any other political authority, in a specific period of time and in a definable geographical sense.”¹⁶

The ultimate result of neofunctional deepening of integration will be the acculturation of national elites in the participation of multi-partner alliances which are the most effective form of management, according to neofunctionalism. Underlying the neofunctional project is an interest in upgrading common interests and interdependence. While neofunctionalism accounts for this acculturation of elites involved in the policy-

¹⁵Ibid, 4-6.

¹⁶Haas, *The Uniting of Europe* 4.

making process, it does not provide an in-depth exploration of the specific features of that mentality or of the policy that results. The problem lies in neofunctionalism's assumption of automaticity. Neofunctionalism, more than intergovernmentalism, seeks to "de-personalize" integration. While it acknowledges the implication of a "political community" in the integration process, its main focus is the technical process of integration, not its character. Its hidden assumption is one of motivation. How is the automatic spillover impelled? What is the character of the acculturation of elites? These questions will be taken up below.

Common Ground

While on the surface, the diametrical opposition of intergovernmentalism and neofunctionalism may seem warranted, the two theories share some common presuppositions that are not immediately obvious. In fact, not only are the differences between the theories routinely exaggerated, but the common foundations of the theories are generally not acknowledged at all. Thomas Risse argues that both theories (1) assume self-interested rational utility-maximising actors where interests remain fixed over time; (2) depend on the low and high politics distinction which has been proven by Holsti and others to be false; and (3) share a Weberian notion of the state as a hierarchical decision-making structure with internal and external sovereignty.¹⁷

Risse's points seem fairly blatant when applied to intergovernmentalism, but more interestingly, they apply equally to neofunctionalism. First, on the rational, utility-

¹⁷Thomas Risse-Kappen, "Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet in the European Union," *Journal of Common Market Studies* 34.1 (March 1996): 56-57.

maximising nature of both theories - intergovernmentalism exhibits this quality in its assumption of a zero-sum game when bargaining in terms of national preferences. This is apparent in Hoffmann's 1966 article where he argues that while integration may provide better opportunity for welfare maximisation through the technical process for small participants, the larger states will not be satisfied given their ability to gain intergovernmentally.¹⁸ The core of this argument suggests that states will not enter into an arrangement that might threaten their ability to exert force and exact power, despite a potential value-added such as welfare-maximisation. This line of argument is reiterated in Hoffmann's "Reflection on the Nation-State..." where he states: "From the viewpoint of the participants,...a regime provides both restraints and opportunities - it limits the state's freedom of unilateral action and it imposes financial loads, but it gets others to share one's burdens or to accept restraints in one's favour."¹⁹

With regard to neofunctionalism, the rational, utility-maximising critique is aimed at the root cause and function of integration - economic gain. For Haas, spillover occurs differently for interest groups, technocrats, and politicians. The common theme among the actors is that they engage in the integration process out of a constant calculation of advantage. As was referenced above (note 13), integration will be pursued by 'groups with specific interests and aims, willing and able to adjust their aspirations by turning to supranational means when this course appears profitable.'

Risse's second point that both theories depend on the low and high politics

¹⁸Stanley Hoffmann, "Obstinate or Obsolete?," 884.

¹⁹Stanley Hoffmann, "Reflections on the Nation-State in Western Europe Today," *Journal of Common Market Studies* 45.1: 33.

distinction is obvious in Hoffmann's initial presentation of the high/low split in the context of discrediting integration in the area of security (high politics) due to the Community's lack of consensus on these matters.²⁰ He posited that integration might occur in the area of low politics, that of economic concern, provided that states allowed for this course of action. Haas, while initially defending the possibility that low politics integration could lead to high politics integration, retracts as the years pass and the exchange between the two authors continues. Eventually, as Haas concedes ground to Hoffmann, he too concludes that integration will likely deepen as long as economic interests are at stake rather than security interests.

The third point made by Risse is that both theories share a Weberian notion of the state as a hierarchical decision-making structure with internal and external sovereignty. Again, in intergovernmentalism, this is extremely clear, especially through Hoffmann's presentation of the effect of Charles De Gaulle on the integration process. Sovereignty of the state and its ability to impose punishments and exact power are crucial to intergovernmentalist theories. Hoffmann asserts that as sovereignty becomes threatened by the integration process, the state government will vigilantly protect its core. Additionally, governments will at some point put national interests above those of its technicians.²¹ This shows a hierarchy with government leaders at the top, and functionaries somewhere below.

According to neofunctionalism, the image of the state as most powerful and final arbiter also lurks in the background despite an appearance of the opposite. This is most

²⁰Hoffmann, "Obstinate or Obsolete?..." 867.

²¹Ibid, 866.

obvious, as Ben Müller notes, in Haas' concept of political community.²² The political community is actualised when people and groups 'show more loyalty to their central political institutions than to any other political authority,' (Haas, quoted here on page 19). This statement alone reveals Haas' expectation that Europe will someday evolve into a monolithic entity which merits the shift of loyalties to some sort of centre. Haas also associates political community with bounded territory, as 'definable in a geographical sense,' a characteristic germane to state authority. Another reference to a stable state-centric order may be gleaned from a shift in thinking in his *Beyond the Nation-State*: Haas relies on the liberal theory of economic man to dispel any notion of utilitarian common good, thereby promoting a convergence of separate perceptions as defining cooperation among groups, not a shared ascription to a greater good. Key to this is also the theory that the values upon which interests are expressed remain relatively stable over time. This move allows for Haas' definition of integration as "a process that links a given concrete international system with a dimly discernable future concrete system."²³ This seems to imply the stable and lasting existence of the international system of states and the potential to usurp that hierarchy (states as the only legitimate actors) with what one might gather to be a supranational political community.

In addition to the similarities outlined above, Erik Oddvar Eriksen and John Erik Fossum identify a related similarity. Both theories rely on common behavioural assumptions. They write:

²²Ben Müller, "Imagining Europe: Community, Identity and Citizenship in the European Union," paper, University of Victoria, March 1999, 12.

²³Ernst B. Haas, Beyond the Nation-State: Functionalism and International Organization (Stanford: Stanford University Press, 1964) 29.

Neo-functionalism is based foremost on the technical instrumental version, whose conception of action is derived from an observational perspective, whereas intergovernmentalism is based on the strategic version of means-end rationality. The latter is intentional and surpasses the former in the sense that actors' choices are seen not only as driven by expectations about the future, '... but also on the basis of their expectations about the expectations of others' (Elster 1984:19). This basic similarity in behavioural assumptions places important constraints on the extent to which these can be seen as truly alternative conceptions.²⁴

The polarisation of intergovernmentalism and neofunctionalism has allowed the appearance of debate and testability of hypotheses in the spirit of positivist falsification without questioning the common assumptive foundation of both theories. This has led some European academics to question the utility of either theory as well as questioning the parameters of the theoretical terrain that is dominated by two theories which set very narrow terms of engagement.

1.4 “The Political” in Integration Theory

Nowhere do the limits of the common assumptions of both theories become more apparent than when they are applied to complex social and relational matters such as the trafficking in women. The liberal-rationalist teleology presented by dominant integration theories (neofunctionalism and intergovernmentalism as discussed above) must be understood as a powerful device of predetermination in terms of the questions that can be asked around European integration, and as the framework for any answers to those questions. So while we may analyse EU responses to the trafficking of women across its borders in functionalist or intergovernmentalist terms, we will see two seemingly

²⁴Eriksen and Fossum.

divergent accounts of the problem, but both will be contained within, and will intrinsically produce, similar conditions of possibility. One of the effects of dominant European integration theory lies in its ability to continually cast outside the realm of the testable, the observable, the questionable, the political, the practices or assumptions that enable certain and specific forms of authority to emerge over others.²⁵ It is to this end that I hope to explore the question of the traffic of women in the EU - to explore processes of authorisation and legitimation at work, and then use these to expose the limits of application of integration theory.

Three assumptions are at work that allow this depoliticisation (or perhaps repoliticisation in terms of a strategic recasting of what is the political) in dominant integration theories: 1) progress/emergence; 2) distinct levels of analysis; and 3) politics as technical efficiency.

The first assumption, that of integration as progress, draws Europe first as something that is coming closer together, and second as having a definite past (the parochial state), and a definite future (the postmodern supranational political community).²⁶ This integrationist optimism, albeit more prevalent in neofunctional theory, write Hansen and Williams, “is grounded not only in a belief in the positive effects of the political integration on cultural identity, but on the mythical capacity of the

²⁵R.B.J. Walker, “Europe is not where it’s supposed to be,” (mimeo) 1999, and Lene Hansen and Michael C. Williams, “The Myths of Europe: Legitimacy, Community and the ‘Crisis’ of the EU,” Journal of Common Market Studies 7.2 (June 1999): 244.

²⁶For neofunctionalism, this takes the form of the aspiration of political community as promulgated by Haas, cited here on page 19.

future"²⁷ that it is hoped, will smooth over those nasty spanners in the wheels of integration. Disruptions like diasporic protests to the redrawing of "Europe", nationalisms, or formal rejection of the Union as in Denmark's rejection of Maastricht, or the former Swiss²⁸ and Norwegian refusal to join the European Economic Area and EU respectively. The effect of such a notion is that it casts objections to the EU negatively and outside the project rather than as inherent to the process, or as serious questions to the integration effort. Walker identifies these type of effects as a reproduction of the practices of sovereignty. By operating in a teleology of spatial inclusion and exclusion, sovereignty works to authorise particular forms of authority over others - "the legitimate and the illegitimate, the legal and the illegal, the normal and the exceptional."²⁹

The theories rest on an account of authority which is modeled on the familiar practices of sovereignty where "authority is inscribed simultaneously...on a vertical (legal, ethical) scale of higher and lower authority and on a horizontal (territorial) scale of inclusion and exclusion."³⁰ Hence the familiar axes of analysis of regional integration - "deepening" to account for greater institutional enmeshment, and "widening" to describe the territorial expansion of the Union. A logic of rationalised order underpins the inevitably deeper integrated EU³¹, whether by a loss of ability to act unilaterally as a result of an earlier calculated transactional trade-off according to liberal

²⁷Hansen and Williams, 243.

²⁸On 21 May 2000, Switzerland passed a referendum approving a treaty equivalent to the European Economic Area.

²⁹Walker, "Europe is not where..."

³⁰Ibid.

³¹Hansen and Williams, 242.

intergovernmentalist thought, or by a *rapprochement* based on increased functional aggregation. Authority always moves up or down and outward movement is always decided at the top. Furthermore, this flow is logical, rational and determined by the mechanisms of integration in each branch of integration theory.

Another effect of this dual construction of time (in terms of a temporal progression to a supranational community) and authorised space is that it produces distinct levels of analysis - subnational, member state or national, regional, supranational in that hierarchical order. A so-called "mid-range" theory of European integration draws its title directly from this construction: multilevel governance. This theory posits that integration is the result of the interaction of institutions, governments, and organisations at all different "levels".³² It was developed in response to the recent invigoration of liberal intergovernmentalism which locates authority (and consequently, control of integration) wholly in the member state. It also wanted to reject the location of the mechanism of integration in neofunctionalism in the technical economic processes that will cause supranational authority to spillover from one area to another, by reintroducing real actors in the process. The result is a reinforcement that such a thing as the supranational exists in an unquestioned way.

While this multilevel approach may be initially seductive in its sensitivity to interests and actors, it carries the same tendencies as the other theories to rearticulate a

³²For a richer development of multilevel governance than provided here, see Beate Kohler-Koch, "Catching Up with Change: the Transformation of Governance in the European Union," *Journal of European Public Policy* 3.3 (September 1996): 359-380; and Gary Marks, Liesbet Hooghe and Kermit Blank, "European Integration since the 1980s: State-centric Versus Multilevel Governance," *Journal of Common Market Studies* 34.3 (1996): 343-378.

hierarchical legal and ethical order. The problem with this is that it cannot possibly account for the spanners (the internecine violence scattered throughout Europe's history, or the nationalist outbursts, etc.) and furthermore, classifies them as spanners. And if it does, it casts them in a particular lens - nationalism is chauvinism, and nationalism is anything other than a total embracement of the European project - old fashioned and subversive. Hansen and Williams point to Helmut Kohl's comment, "Germany is my Fatherland, Europe is my future"³³ as an example of the "future-oriented rhetoric" that characterises the integration project.

On the levels of analysis problem more broadly, Walker writes: "Transformed into the dominant strategy of classification and pedagogy, into a merely analytical device for sorting what goes where, it turns ontological densities into methodological shallows."³⁴ This is accomplished by rendering questions of identity, authority, gender, ethnicity or citizenship in specifically economic terms in order to fit them into the "levels" schema. As such, an in-depth engagement with these questions must occur outside of such a framework. Thus it is not surprising when Catherine Hoskyns, in addressing questions of gender and migration in the EU writes: "As my work progressed, I found that not only were these theories [integration theories] unhelpful when applied to my material, but also that the way they attempted to order the European arena marginalised issues and approaches which appeared to me important."³⁵

³³Cited by Howe in Hansen and Williams, 243.

³⁴R.B.J. Walker, "Gender and Critique in the Theory of International Relations," Gendered States: Feminist (Re)Visions of International Relations Theory, ed. V. Spike Peterson (Boulder: Lynne Rienner Publishers, 1992) 189.

³⁵Hoskyns, 17.

1.5 Why Integration Theory?

The core problem identified in this thesis is that European integration theory's definition of the political is narrow in scope and thus limited in application to economic, rationalist ideational terrain. A student of European integration theory is interested in how the EU is produced. That is to say, what brings member states together, when does *rapprochement* occur (or when does it not), and how that is different in the context of Europe compared to other regional associations or international organisations of states. In order to test integration theories, they must be applied empirically. Sandholtz applies his version of neofunctionalism (supranational transaction theory) to the Union's telecommunication policy regime³⁶; Stone Sweet and O'Reilly do the same with air transport regulation³⁷; Sbragia examines European institution-building through environmental politics³⁸; Moravcsik develops his brand of intergovernmentalism through examining the Single European Act³⁹; Verdun examines the emergence of a European

³⁶Wayne Sandholtz, "The Emergence of a Supranational Telecommunications Regime", in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 134-163.

³⁷Dolores O'Reilly and Alec Stone Sweet, "The National Liberalization and European Reregulation of Air Transport", in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 164-187.

³⁸Alberta M. Sbragia, 'Institution-Building from Below and from Above: The European Union in Global Environmental Politics', in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 283-303.

³⁹Moravcsik, "Negotiating the Single European Act..."

monetary elite through an epistemic community approach to integration⁴⁰. Integration theory is both constituted by these practical examples, and is constitutive of the cases. By this, I mean that integration theories did not simply pop out of thin air, they are based on empirical cases, historical record, and disciplinary theory (in their emergence from international relations as discussed above).

Haas, arguably the founder of integration theory, reached his conclusions about the automaticity of spillover based on his observations of the European Coal and Steel Community. He concludes that the interplay of two economic factors led to increased integration: first, the irrational and impossible attempt to isolate sectoral integration (i.e. by only starting with coal and steel), and second, placing the responsibility of removing constraints to trade in the hands of governments since they lack jurisdiction over some trade obstacles and cannot force government compliance in others. In trying to accommodate these two principles of the integration process, the scope of joint governmental measures increased at every step. Furthermore, fragmentation of interests at the national level led to the evolution of the common market. This was due to treaties that contained a large variety of unrelated provisions that appealed to many different interests, thus leading to a pattern of convergence of demands rather than one of identical interests from the start. These conclusions formed the basis for many neofunctional theories that followed. Because they are so tightly tied to economic rationale, cases used to test functionalism were chosen based on their predetermined suitability - i.e. they are largely economic in nature, or they are cases to which economic theories may be applied without

⁴⁰Amy Verdun, "The role of the Delors Committee in the creation of EMU : an epistemic community?" San Domenico, Italy : European University Institute, Robert Schuman Centre, 1998 (Series: EUI working papers. RSC ; no.98/44).

much abstraction.

However, part of the logic of spillover is that integration in one area, will lead to unanticipated integration in other areas. The EU is now producing policy and legislation in a number of “social”⁴¹ areas that were intended to remain under member states’ jurisdiction.⁴² So, the question becomes, can we study these “social” policy regimes in terms of integration theory? Furthermore, would we want to? Neofunctionalism provides an access point in its spillover and unintended consequences. Multilevel governance is suited towards examining processes and institutions involved in policy-making, regardless of the issue area. However, even where landmark Union-wide “social” policies are achieved, integration theory is generally not consulted in order to enhance understanding of those policy processes and/or their impact on deeper/wider integration, as it is in their economic counterparts (i.e. Economic and Monetary Union). Because of this economic rationale, as Hoskyns suggests in her quote above, integration theory when applied to social policies will inevitably skew important elements and only render answerable very specific questions.

Like Hoskyns, various theorists instinctively disregard integration theory but

⁴¹“Social” is in quotations here to signify that this is the realm to which gender studies or social policy studies have been relegated, given the primacy of economic and sovereignty issues afforded by integration theory. The “” also signify my rejection of this label because of its inferior status - the “social” realm is not as important as the economic, given that European integration began in the joining of markets. The argument here is that the EU has come to mean more than just market integration and is defining important issues with economic, political, social and cultural significance. As such, “social” matters must come to the fore, both in academic circles and policy contexts not least by way of rendering the governmental apparatus more accountable to the people it represents, and those it affects indirectly.

⁴²As in the example of the EU parental leave policy discussed above.

without a significant explanation as to why. Eriksen and Fossum are critical of both intergovernmentalism and neofunctionalism for not providing any consideration of public discourse and its role in constituting “Europe”. In speaking more directly to Moravcsik, they argue that “preferences cannot be taken as given, they are shaped, tested and reshaped in the many discursive and legal settings that the complex European integration process provides.”⁴³ Picking up on the theme of lack of social constitution in these theories, Leander and Guzzini write:

A recent review article on the state of academic thinking about the Union rightly points to the rather uninteresting results of the debate generated by neo-functionalism which has so far dominated academic discussion of the Union. After all whether the Union is a form of “institutionalised intergovernmentalism” or a form of “intergovernmental institutionalism” only takes the discussion so far. Certainly, it does close to nothing for those interested in the political economy of the Union and very little for those interested in the social dimension in any way.⁴⁴

The aim of this thesis is to identify why this type of marginalisation occurs by revealing the assumptions of integration theory through an exploration of an empirical case - the trafficking of women in the EU. This is significant, as evidenced by these quotes, because integration theory is still often used as a primary or exclusive discourse for interpreting Europe. Each of the authors above indicate that they have considered their issue areas through integration theory and come up empty-handed; they then turned to other, more relevant bodies of theory. But because integration theory is often used exclusively, gender, culture, and social issues will remain in the margins. Furthermore, the ability to separate these issues out is permitted, as long as integration theory is not seen as gendered, cultured, or socially accountable and relevant. Thus, another aim of my

⁴³Eriksen and Fossum.

⁴⁴Leander and Guzzini, 151.

project is to dethrone the exclusive use of traditional integration theory in favour of more rigorous, critical approaches that provide greater analytical depth, given that the EU is far more than simply a free trade zone.

1.6 Conclusion

This chapter has sought to introduce the basic tenets of dominant integration theory by focusing on its two supposed extremes, intergovernmentalism and neofunctionalism. Further, it has attempted to identify the common assumptions in both theories and to locate their presentation of the political and their resultant limitations of application. Integration theory's dominance as the main lens for interpreting the EU and the marginalisation of questions that are not of a directly economic nature were discussed.

The following chapters deal with the trafficking of women and how this problem has been raised and written in the EU policy environment. The next chapter discusses dominant feminist theory on trafficking and prostitution. Its position in this paper may initially seem strange, but it is crucial for understanding why the EU's policy on trafficking takes the form it does since feminist groups were instrumental in getting it on the agenda, and in drafting a conference report that would largely form the basis for EU policy. Also, it will reveal that the problems identified in integration theory presented above, are found in dominant feminist theory as well, indicating a larger problem in modern Western thought more broadly. This speaks to the importance of identifying different analytical tools that would help broaden our understanding of complex problems by shifting the focus away from a means-end, liberal, state-centred rationale.

Chapter Two: Feminists Theorise Trafficking

2.1 Introduction

When I thought of trafficking in terms of integration theory, the first thing I did was pare it down to market demands. I thought of it in terms of a necessary area for member state harmonisation because of the competitive advantage afforded to countries with a profitable sex tourism industry made possible by their laws on trafficking and prostitution. I applied this logic not only to the sex industry, but also to cross-country variance of regulation on domestic workers and factory/farming labour. Obviously, occupational health and safety regulations come into play in these latter examples, and these were among the first set of “social” laws to be legislated Union-wide, precisely with the aim of preventing competitive advantage. Immigration policies would also be key in these cases. In the sex industry example, the Netherlands and Belgium are at a distinct advantage. While trafficking and prostitution occur in every EU member state, these two countries are the most tolerant of these practices. There is obviously much more at stake when considering these types of issues and the approach I took initially is fatally problematic. My purpose in explaining my initial consideration of the problem is to show that this kind of thinking is not out of line with the market harmonisation project on which integration theory hinges. As I began to read EU interpretations of trafficking and how the problem was being addressed, I quickly realised integration theory would not be helpful if used exclusively in exploring how a European response was being crafted,

despite its certain impact on European integration.⁴⁵ I began to look at other feminist theory both as a foil to the inadequacies of integration theory, and in order to gain some insight into the problems posed by trafficking. I found that the language contained in the Union approaches to trafficking was mirrored in the language used to frame the problem in feminist theory. Soon I found that the impetus for the Union's policies on trafficking was a conference held in Vienna in 1996 under the Commissioner then in charge of immigration, Anita Gradin. It was clear that due to active feminist participation in the conference, much of the policy outcome was based on the feminist debate surrounding the issue. The purpose of this chapter is to introduce the feminist debates on trafficking in women which greatly influenced the EU's legal and non-legal measures in this area and how this is problematic. After the theories are introduced, a discussion of the problems raised by the dominant feminist approaches will be presented.

2.2 Feminists Theorise Trafficking and Prostitution

Feminist debate on prostitution has a much longer history than that on trafficking. Although the trafficking of women for slavery or sex work is certainly not a new phenomenon (for example, the stealing of Caribbean and African women to the American South in the 1600-1800s; or the importation of Korean, Chinese, Philippine, and

⁴⁵Trafficking will affect integration as it is now included in the EU's response to every recent bid for outside accession. As a condition for the EU's accession partnerships with Malta, Cyprus, Slovenia, the Czech Republic, Bulgaria, Lithuania, Estonia, Latvia, the Slovak Republic, Romania, Poland and Hungary, all have been instructed at minimum to "continue the fight against traffic of women and children."

Indonesian "comfort women" to Japan in the second world war), it has become more prominent in the last quarter of a century due in part to increased migration and travel flows world wide made possible by advances in rapid transportation. Unlike prostitution, there is not a rich body of academic literature on the subject of trafficking in women, but it is certainly starting to develop.⁴⁶ Because of its intimate relation to sex work, much of the trafficking literature follows the same lines of critique as the prostitution literature. Feminist debates in the latter are centred around one major divide: abolitionists versus rights advocates. I begin with a brief general introduction to each position. I will then present the areas of conversational overlap/disagreement according to each position: trafficking versus migration, forced versus voluntary, prostitution versus sex work, and victims versus whores. Each binary is presented with the "abolitionist" component first (trafficking, forced, prostitution, victims), and the "rights" component second (migration, voluntary, sex work, whores).

Abolitionists

Generally, abolitionist politics of prostitution hold that prostitution is the epitome, the most institutionalised form, of female oppression which is always based entirely on sex and sexuality. Catharine MacKinnon and Andrea Dworkin are the two most

⁴⁶For interesting feminist trafficking studies see Nina Standberg. "What is Trafficking in Women and Children and What Can Be Done?", *Kvinnoforum*, November 1999, cited 29 April 2000, <<http://www.qweb.kvinnoforum.se/papers/tic-whatistrafficking.html>>; Marjan Wijers, "Women, Labour, and Migration: The Position of Trafficked Women and Strategies of Support", in Kamala Kempadoo and Jo Doezema, eds., *Global Sex Workers: Rights, Resistance, and Redefinition*. New York: Routledge, 1998, 69-78.

popularised founders of this position. MacKinnon contends that sexuality is inherently constructed as a relationship of domination whereby men are active and dominant and women are passive and submissive: “Women’s sexuality is, socially, a thing to be stolen, sold, bought, bartered, or exchanged by others...women never own or possess it.”⁴⁷ Furthermore, sexuality is always equated with prostitution: “...practices [such as] rape, battery, sexual harassment, sexual abuse of children, prostitution and pornography...taken together, express and actualise the distinctive power of men over women in society; their effective permissibility confirms and extends it.”⁴⁸ Thus, sexuality and prostitution are equipollent as long as prostitution (and the other practices MacKinnon mentions) exists. Therefore, prostitution must be abolished. If it is heralded, as it is by the sex workers’ rights advocates on the other side of the debate, it is only done in false consciousness, that is, “in response to terms men set.”⁴⁹

Kathleen Barry, arguably the most widely read feminist theorist on trafficking, ascribes to MacKinnon’s theories of sexuality. Barry writes, “Sex is power over all women...While sexual identities are socially ascribed to women, men achieve their identities as acting beings.”⁵⁰ Barry’s theory of trafficking is that it prevails in “pre-industrial” and “agricultural” societies where women are the property of men, as opposed

⁴⁷MacKinnon quoted in Shannon Bell, Reading, Writing & Rewriting the Prostitute Body (Bloomington: Indiana University Press, 1994) 80.

⁴⁸Catharine A. MacKinnon, “Sexuality,” The Second Wave: A Reader in Feminist Theory, ed. Linda Nicholson (New York: Routledge, 1997) 158.

⁴⁹Ibid, 159.

⁵⁰Kathleen Barry, The Prostitution of Sexuality (New York: New York University Press, 1995) 9 and 22.

to post-industrial societies where women are independent.⁵¹

The main theme in abolitionist thinking is that prostitution and trafficking are the most vivid examples of male domination over women, and furthermore that as long as they exist, this domination will continue. Women who participate in the sex industry do so because of lack of alternative. The act of selling a body for temporary use by another is often related in Marxist terms as a false commodification. The implication here is that the client (john) becomes the employer and the prostitute has no ownership of her body (labour) as soon as it is put on a market.⁵² More than this, all women are harmed by this relationship as its acceptance implies that it is a true and necessary relationship of all women to all men.

Rights Advocates

Prostitution rights advocates refute the “moralistic” underpinnings of the abolitionist stance. Contrary to abolitionists, they argue that women not only can choose to prostitute themselves, but that they should be supported in that choice. The choice is not necessarily “free” in that it is recognised by rights advocates that the choice is made

⁵¹The whole argument is presented in Barry’s “Traffic in Women” chapter, but is summarised on pp. 196-197.

⁵²Carole Pateman in Bell, 78. Bell provides an interesting analysis of Pateman’s Marxian position which demonstrates an inadvertent support for the liberal rights advocate approach when Pateman argues that the employment contract as the original form of prostitution, which favours those who own property (the capitalist, the husband, the client) supports the idea of prostitute as worker, as well as worker as prostitute, because those who do not own property (the worker, the wife, the prostitute) are equalised in the relationship. Thus, the prostitute is a worker in the labour rights sense of the word.

within the confines of a “capitalist, patriarchal and racist system.”⁵³ Support would entail legal recognition of prostitution and other sex work as legitimate forms of work, buttressed by occupational health and safety laws. Rights advocates argue that women can be empowered in sex work because they set the terms of the transaction - how much money and for what services. Further, sex work dispels the illusion that women have “private parts” through allowing a demystification of the female body which is not allowed in the larger societal context. One quote from a sex worker:

I am not warped with the shame of my body because the only images of my body that I get are media images, print or television stuff. I have this whole sample of all these different bodies that I see up close all the time. It has really just helped my whole perception of my body...Other people have problems with their bodies still because they don't see their bodies...Before [beginning sex work] I was just really shameful and I wouldn't make love in the light and I had problems with people seeing my body.⁵⁴

Some sex workers argue that they are challenging the “heterosexual economy” by entering it directly. Women speak of liberation in sex work because where in the “legitimate” economy they would endure sexism, sexual harassment or regulations about appropriate female dress or behaviour, in sex work the relationship is more open and honest. Furthermore, sex work can actually subvert “normal” sexual relations where men can usually take sex for granted (i.e. in marriage rape is considered legal in many states).

Pendleton writes:

When sex workers perform femininity, we purposefully engage in an endless repetition of heteronormative gender codes for economic gain. Using femininity as an economic tool is a means of exposing its constructedness and reconfiguring

⁵³Bell, 111.

⁵⁴Dewdrop in Tawnya Dudash, “Peepshow Feminism,” Whores and Other Feminists, ed. Jill Nagle (New York: Routledge, 1997) 107.

its meanings. While some feminists argue that sex workers reinforce sexist norms, I would say that the act of making men pay is, in fact, quite subversive. It reverses the terms under which men feel entitled to unlimited access to women's bodies. Sex workers place very clear limits on that access, refiguring it on our own terms.⁵⁵

From the rights advocate view, laws against prostitution perpetuate the violence that women experience in the sex industry. Anti-prostitution, pornography, and sex work laws serve to stigmatise women⁵⁶ and “ensure poor working conditions and the inability of many sex workers to move on to other kinds of work without lying about their experiences.”⁵⁷ If it was out in the open and supported by law, sex workers would have recourse when abuses occur, rather than fearing arrest or maltreatment by authorities when they report crimes committed against them.⁵⁸

Trafficking vs. Migration

Trafficking in women involves their illicit transport from one country to another, usually by an organised criminal gang, generally for prostitution or sex industry work.

One author writes: "To traffic women means to work upon their desire or need to migrate,

⁵⁵Eva Pendleton, “Love for Sale,” Whores and Other Feminists, 77 and 79.

⁵⁶One woman poignantly writes: “It never seems to matter how long I’ve lived with the stigma of being a prostitute or being a lesbian, or being something someone didn’t think I should be. I can’t seem to get used to being treated as though I am less than human. I don’t think I ever will. It’s always a shock to me.” Sharon Kaiser, “Attitudes,” Sex Work: Writings by Women in the Sex Industry, ed. Frédérique Delacoste and Priscilla Alexander, 2nd ed. (San Francisco: Cleis Press, 1998) 122.

⁵⁷Priscilla Alexander, “Prostitution: *Still* a Difficult Issue for Feminists,” Sex Work, 184.

⁵⁸Many prostitutes report being fondled, raped or abused by police officers and border guards, or told by police that it is impossible for a whore to be raped.

by bringing them into prostitution under conditions that make them totally dependant on their recruiters in ways which also impair their rights."⁵⁹

Migration, as opposed to trafficking, does not imply an ongoing debt to a third party in crossing borders, whether legally or illicitly. In migrating, people choose to leave their state in favour of another. This distinction, along with the association of foreign women who work in the sex trade with trafficking, has caused much debate as to the estimated numbers of trafficked women. Some groups include in their estimation women who migrate either illegally or legitimately, but who work in the sex industry among those who are trafficked, even if they did not pay someone to help them over. Others only consider women in the sex trade who are working off debts to traffickers, who have escaped control of their traffickers, or who in being deported, have told of being trafficked by a third party. The estimates vary from 200 million to 30 million women trafficked worldwide, or less depending upon the criteria used to define trafficking/migration.⁶⁰

Often, both advocates and abolitionists will use the term trafficking to describe a situation where violence or coercion occurs. For example, the Global Alliance Against Traffic in Women (GAATW) defines trafficking in women as:

All acts of violence in the recruitment and/or transportation of women within and across national borders for work or services, including physical/psychological violence or threat of physical/psychological violence, abuse of authority or

⁵⁹Sietske Altink, Stolen Lives: Trading Women into Sex and Slavery (London: Scarlet Press, 1995) 1.

⁶⁰Ibid, 3.

dominant position, debt-bondage, deception or other forms of coercion.⁶¹

This definition widens the spectrum of women trafficked to include domestic workers, factory or “sweat shop” workers, and “mail-order brides”, as well as sex workers. The principal differences between abolitionists and rights advocates in defining trafficking is their anchoring of the practice of prostitution to the concept. The GAATW definition does not mention prostitution because this group considers prostitution as legitimate work, therefore it is automatically included, but not isolated, in “work or services”. This position allows rights advocates to argue against trafficking but for non-abusive cross-border migration for the purpose of sex work. Therefore, rights advocates can hold a discussion about trafficking that is separate from a discussion about prostitution. The abolitionist position, however, will always root prostitution in its presentation of trafficking since, according to them, prostitution is a form of violence in and of itself to which most women are submitted in their traffic. Furthermore, a broader marriage of all forms of abuse against women is key to the feminist project. Barry writes:

Feminist consciousness is diminished if the movement confronts and effectively addresses only one issue, such as pornography in the West or trafficking in the Third World, without addressing the entire matrix of sexual exploitation. Therefore, single-issue feminism is a contradiction to feminist consciousness of oppression.⁶²

Abolitionists, therefore, do not wish to engage in two separate conversations about trafficking and prostitution - they are co-terminus and cannot be bifurcated.

⁶¹Global Alliance Against Traffic in Women - Canada (GAATW), Whores, Maids & Wives: Making Links. Proceedings of the North American Regional Consultative Forum on Trafficking in Women, April 29-May 3, 1997, Victoria, Canada, 115.

⁶²Barry, 87.

Forced vs. Voluntary

As is evident from Altink's definition of trafficking (note 59), an element of coercion is present in the abolitionist stance. Barry defines traffickers as "traders in human beings who either buy women from husbands, buy children from parents, fraudulently promise them well-paying jobs or lucrative marriages at the other end, or they abduct them."⁶³ According to the abolitionist stance, trafficked women are usually sold unwillingly to their traffickers, or they are tricked by false promises of legitimate employment and then made to prostitute once the destination is reached to work off their trafficking debt. Keeping in mind the general abolitionist argument presented above, women who "choose" to enter the sex industry do so under a false consciousness about the exploitative nature of their work. Therefore, structural coercion can be said to exist in any prostitution scenario as women are taught to serve men sexually due to the hetero-male construction of sexuality at the heart of the abolitionist stance.⁶⁴ No distinction can be made then between forced and voluntary prostitution or trafficking.

The pro-sex work camp holds that women may choose to enter prostitution *and* a trafficking situation, whether they are abused in that situation or not. In prostitution discourse, voluntary prostitution is defined as:

...the mutually voluntary exchange of sexual services for money or other consideration; it is a form of work, and like most work in our capitalist society, it

⁶³Ibid, 165.

⁶⁴Nina Standberg, "What is Trafficking in Women and Children and What Can Be Done?" *Kvinnoforum* (November 1999), cited 29 April 2000
<<http://www.qweb.kvinnoforum.se/papers/tic-whatistrafficking.html>>

is often alienated, that is, the worker/prostitute has too little control over her/his working conditions and the way work is organized. Forced prostitution is a form of aggravated sexual assault.⁶⁵

Note that the GAATW definition (note 61) includes, but is not limited to a coercive relationship. It is the violence that occurs in trafficking to which rights advocates object, rather than the act itself. This position emphasises a variety of situations that might lead women to traffic and/or prostitution including coercion *and* choice.

Prostitution vs. Sex Work

This distinction was briefly presented above in relation to trafficking. Abolitionists anchor prostitution to trafficking, whereas rights advocates separate the two. Abolitionists maintain that the violence incurred in trafficking and prostitution is inherent and cannot be dealt with separately. Prostitution is violent and it violates all women. If it was to be legitimised as “sex work”, states would be acknowledging this violation as acceptable and worthy of protection. Rights advocates argue that prostitution is violent because it is driven underground by its illegality or lack of tolerance. Using the term sex work serves to lend credibility and regulation to prostitution, but also broadens the scope of protection to include strippers, dancers, masseuses, etc. Included in the intention behind “sex work” is the gaining for women involved in the sex industry, the rights of freedom of movement, freedom of expression and freedom from violence.⁶⁶

⁶⁵The National Task Force on Prostitution (United States), as cited in Bell, 114.

⁶⁶Strandberg.

Victims vs. Whores

In relation to trafficking, abolitionists wish always to associate trafficking with prostitution, rather than a broader definition which incorporates other forms of labour. The rationale for this is that women are always victims of the dominance of men inherent in the authorising practices of sexuality as it arises in prostitution. Therefore, any trafficking language which associates prostitution with other “legitimate” forms of labour, ceases to cast women as victims through implying freedom of choice. In response to the Council of Europe’s conference entitled *Action Against Traffic in Human Beings for the Purpose of Sexual Exploitation: The Role of NGOs*, one abolitionist group writes:

With regard to ideology, the [conference] title itself is used to negate the prostitution problem...The concept of traffic, in effect, allows one to totally avoid any reflection on prostitution or the system which legitimizes male domination of women...We make the connection between prostitution and traffic. And also between prostitution and pornography, domination, objectification, putting the human body on the market, the attack on humanity, etc.⁶⁷

Women are victims of and in the sexuality construct and all of the examples at the end of this quote are manifestations of that victimisation.

The term “whore” has been reclaimed by prostitutes and rights advocates. It evolved out of the nineteenth century meaning “unchaste,” “defiled,” and “diseased.”⁶⁸ This definition, plus the modern one noted below (as someone who compromises

⁶⁷Malka Marcovich and Meredith McGowan, Movement for the Abolition of Prostitution and Pornography, “Political Report on Action Against Traffic in Human Beings for the Purpose of Sexual Exploitation: The Role of NGOs”, Conference Organized by the Steering Committee for Equality Between Women and Men, Council of Europe, June 29-30, 1998, posted by Coalition Against the Traffic in Women, cited 27 March 2000 <<http://www.uri.edu/artsci/wms/hughes/catw/ngocoe.htm>>

⁶⁸Bell, 107.

principles for economic gain, note 70) is rejected through a subversion of its use by the women it is meant to harm. The title of the book *Whores and Other Feminists* (see note 54) is meant to showcase that use, casting sex workers as feminists. It is meant to reject the abolitionist stance which effectively denies the status of “feminist” to prostitutes by assigning them lack of agency in their state of false consciousness. Whores reject victimisation, claiming their right of self-determination and emphasising the potential for empowerment in the sex industry as discussed above.

Now that the dominant feminist positions on trafficking and prostitution have been introduced, some of the problems posed by the debate will be presented below. The positions presented in the two camps both pose interesting insights and difficult problems. The internal logic of both stances will be discussed first, followed by some observations on the structure of whole debate.

2.3 Identifying Problems

The abolitionist stance is foundationally insecure because it rests on an essentialised ascription of power to heterosexual men in its relation of sexuality. This view clearly ascribes no agency to women in defining and expressing their sexuality, because sexuality privileges male, hetero authority. Further, there is no room here for discussion of sexualities. How can gay prostitutes, male or female, be accounted for? In defining sexuality in such limiting terms, abolitionists seek to illustrate the false commodification of supposedly female sexuality. This results in the double rendering of women as powerless: first, in the impossibility of sexual self-determination, and secondly

in the impossibility of economic self-determination. By this view women cannot be seen as self-interested economic agents independent of their sexuality. Man, therefore, remains “economic man” via his dominant position accorded by sexuality for market purposes - for his own pleasure both at home and in purchasing sex whether through porn, hookers, phone sex, or strippers. Conversely, women remain voiceless within that system since they are not able to define the market or their sexuality (i.e. via the marketisation of sexuality). By this I do not mean that women (or men) should be grounded in these terms, as in “all women/men are self-interested economic actors”, but rather that the abolitionist stance allows us to imagine men and not women in this way.

In the same vein, Barry’s analysis is also clearly based on an essentialised role for heterosexual males as powerful and women as powerless in the grounding definition of sexuality. The key to reversing that situation for Barry, is to eliminate prostitution which would result in a break in the repetitive recasting of all women as whores: “The optimism of feminist action is more than difficult to sustain in the face of global normalization of prostitution and pornography - the international reduction of woman to whore, in the home, in colleges, in brothels, on the streets.”⁶⁹ Her text here embarrasses itself because it is based on a contingent moral reification which Barry then reproduces in order to bolster her argument. The logic goes like this: The existence of the primordial whore, the prostitute, constructs all other women in her image. As such, the whore must be eliminated to free other women. It is then the feminist’s role to “out” the whores and turn them into women by educating them on their illegitimate whorish being. Feminists must

⁶⁹Barry, 296.

also fight to legislate the whores out of existence through anti-prostitution and pornography laws. The fallacy occurs on the division between woman and whore.

A whore became a whore in the nineteenth century in an effort to combat sexually transmitted disease. The modern dictionary definition:

whore (hôr) *n.* **1.** A prostitute. **2.** A person considered sexually promiscuous. **3.** A person considered as having compromised principles for personal gain.⁷⁰

The ascription of authority to the woman, over the whore, is the arbitrary normative move not only in Barry's thought, but in the very definition of "whore" which entails "compromised principles," without definition of whose principles, for what purposes, and who they serve to help or hinder. Barry's analysis discounts any authority for the prostitute, as she must always be compromising principles (though they cannot be her own) for personal gain. The principles compromised are the interesting part of the equation. Whose principles are these? Why does the position of whore have so much power in its ability to cause all other women to be signified as whores, yet the person in that role has absolutely no power, authority or legitimacy?

Such a broad categorical definition as the version of sexuality that is promulgated by abolitionists, serves to privilege some views to the detriment of others. The abolitionist feminist serves as a witness to the repetitive subjugation of women to the demands of heterosexual male authority. Since the women who are under men's control, or victims of the power demands of the sexuality construct, cannot see they are being subjugated, they cannot speak authoritatively about their situations. The only voice of

⁷⁰Canadian Dictionary of the English Language (Toronto: ITP Nelson, 1997) 1548.

authority then, is the witness-bearing feminist's.

In order to account for a multitude of possibilities for sexuality and with the aim of bringing to the fore the voices of those who would be silenced under abolitionist thought, a theory such as Judith Butler's performativity may be useful. Performativity of the body or gender refers to a process of repetition of acts or practices which in fact "produces its own raw material, be it the drive or the subject."⁷¹ The end result of this approach is to de-naturalise identity categories. Ultimately, the "fictitious unity" which binds concepts such as gender, sex and sexual identity is revealed through exploring the performativity of these categories, and not only is their "un"relation exposed, but so too is their existence as supposed foundations or origins via the very fact that performativity is necessary in sustaining these categories.⁷² In other words, the rendering of sexuality offered by abolitionists is highly normative in that it enforces heterosexuality and exclusionary because it elides the many differences among prostitutes, and the women who are not prostitutes who are apparently repeatedly subjugated by the existence of their "others" (prostitutes). A performative approach would allow for an examination of these origins but would also allow for the possibility of disruption.

In addition to the problems raised by the abolitionist position on sexuality, Barry's construction of trafficking is also problematic. The assumption made here is that trafficked women are always and automatically victims due to traffickers preying on their

⁷¹Sara Heinämaa, "What is a Woman? Butler and Beauvoir on the Foundations of the Sexual Difference," *Hypatia* 12.1 (1997): 33.

⁷²Judith Butler, "Imitation and Gender Subordination," *The Second Wave: A Reader in Feminist Theory*, ed. Linda Nicholson (New York: Routledge, 1997) 312.

naïveté and economic circumstance. Barry is the most widely acknowledged source of this type of rationale where trafficking is said to prevail in “pre-industrial” and “agricultural” societies where women are the property of men, as opposed to post-industrial societies where women are independent. Trafficked women, then, remain “ignorant, poor, uneducated, tradition-bound, domestic, family-oriented, victimized...and incapable of self-determination.”⁷³

While it is true that women in “post-industrial” societies are less frequently trafficked than their “third” and “second world” counterparts, to frame the problem in this way ascribes a cultural root for trafficking rather than structural forces. This thinking implies that in these societies, men have no compunction about selling their wives or daughters into trafficking, and that the women themselves are uninformed, uneducated, or morally misguided. In actuality, the women trafficked out of Central and Eastern Europe are often university educated, single women.⁷⁴ In all countries, there are stigmas associated with women who work in the sex industry - that is why many women leave their countries to pursue sex work. I agree with Barry that education levels are appallingly low in these countries, especially in “third world” countries, and that higher education levels can certainly increase the range of employment available to women.

Rather, I simply want to point out that where women are trafficked from, education is

⁷³Referring to Barry, Kamala Kempadoo, “Globalizing Sex Workers’ Rights,” *Global Sex Workers: Rights, Resistance, and Redefinition*, ed. Kamala Kempadoo and Jo Dóezema (New York: Routledge 1998) 11-12.

⁷⁴Marco A. Gramegna, “EU Conference on Trafficking in Women for Sexual Exploitation,” Vienna, 10-11 June, 1996, *International Organization for Migration*, 5, cited 15 June 2000, <<http://www.iom.int/IOM/Statements/trafficking.html>>

irrelevant if they cannot find a job that supports them. In doing so, I want to reject Barry's assumption that the more educated a woman is, the less likely it is that she will be trafficked. Clearly, the women of Central and Eastern Europe disprove that thesis. So if education and morality are eliminated as root causes (because trafficked women come from all kinds of educational and moral backgrounds), then we can begin to consider other structural concerns like lack of employment opportunity for women in countries of origin, and economic dependence on "first world" countries. The blame then shifts from the women who are trafficked and their socio-cultural origins, to the conditions that support traffic in the first place.

This mode of thinking contributes to a particularly unhelpful cleavage in the debate: forced versus voluntary participation in trafficking. Often, women who volunteer for trafficking are assumed to do so under false promises of the type of work they will engage in once their destination is reached. Passports are taken from the women by their traffickers, forcing them to remain under their pimps' control. Women are tricked, beaten, sold, or coerced into traffic and prostitution and thus they are involved against their wills. On the other side, women choose, despite the risks, to be led to another country at any cost even that of perpetual servitude. Much of the language around trafficking policies and feminist presentations of the problem deals mainly with "forced trafficking" since it is a little more clear cut in its injustice. The trick of this the forced/voluntary binary (as is the case with most binaries) is that it presents two extremes each of which is neither wholly true, nor wholly false. It serves to detract from the larger context of trafficking which certainly must engage with the thinking, actions and relative authority of those involved, but must couch these in more comprehensive terms as an examination of the

conditions of possibility of the whole.

This is not surprising given the tradition of modern political thought which serves to divide the world into oppositional dyads. All of the problematic constructs involved in trafficking policies and dominant feminist analyses presented here can be traced back to the practices of sovereignty that enforce a whole series of dualisms originating with the self-identical sovereign subject.⁷⁵ A complex web of binary relations are cultivated in order to maintain the cogency and salience of sovereignty's demand for the resolution of multiple identities into one unified version: the sovereign subject. As identified in the Hobbesian contract, the single subjective experience is required in order to protect us from ourselves. That sovereign identification must come first in order for the compact to be realised. Therefore, categories such as self/other, inside/outside, woman/whore, citizen/migrant, become not only possible, but necessary. Binary thinking is comfortable and deeply entrenched in many modes of theory, and especially international relations whose very existence as a discipline depends on such a cleavage. In the feminist context, this takes the form of the abolitionist versus rights advocates debate wherein each camp defines prostitute/sex worker as a single, unified, uninterrupted subject, thus making all the other binaries presented here possible.

A politics of trafficking and prostitution that escapes these problems is difficult to engage in or even imagine. Both camps open doors to achieving this task: abolitionists demand attention to forces of domination involved in trafficking and prostitution, and rights advocates demonstrate that to take prostitution/trafficking only as a core problem,

⁷⁵Walker, "Gender and Critique..." 188.

rather than as a symptom of larger structural forces, can result in further victimisation of women. These are the entry points that I will use in the next two chapters to further my own discussion of trafficking in the EU. I will take this line of thinking up in the final chapter of the thesis in suggesting what I imagine a politics of trafficking to be.

2.4 Conclusion

Although one might suppose feminist theory or involvement could help solve the problem of trafficking, like integration theory, the dominant feminist debate is centred around a series of dichotomies that obscure important and relevant problems or questions. While feminist participation certainly helps illuminate issues involved in trafficking (particularly by way of generally bringing to the fore testimony of women who have undergone such experiences), this debate tends to oversimplify the categories represented therein (such as traffickers, trafficked women, etc.). By being reductionist, the terms of the debate do not draw attention to the subtleties of the issues by highlighting the mass variation of women's experiences in trafficking and prostitution and examining the larger structuring forces at work. Each side tends to pick the voices that best support its standpoint; that is, rights advocates will highlight positive trafficking experiences and women who voluntarily entered with full knowledge of their journey and work upon arrival. Rarely do we see accounts for example, of the drug-addicted prostitutes that we see in Victoria on Gorge Road or Quadra, selling their services at seven in the morning. Abolitionists, on the other hand, will tend to bring out women who were beaten, raped, abused, and forced unwillingly into traffic or prostitution. The problem here is that both

sides are right. All of this happens in trafficking and prostitution. By fighting back and forth on these representations of the problem, attention is drawn away from its root causes. This is significant because it is this theory, exclusions and all, which forms the background for the EU's policy responses to trafficking. These are addressed in the next chapter.

This section aims to introduce and discuss the policy environment in the EU on the problem of trafficking in women. Picking up from the dominant feminist theory on trafficking and prostitution presented in the previous chapter, a discussion of the impact of that debate on EU policy is taken up here. The chapter begins by presenting how the problem manifests in the EU. It then moves on to discuss EU versus member state competency to act on the issues. The chapter culminates in a discussion of the European Commission's 1996 Communication which forms the basis for EU policy on trafficking in women. Post-communication policy instruments are presented and the chapter ends in a discussion of the "repressive" quality of the EU approach.

3.1 Scope of Trafficking in the EU

The EU estimates that between 200,000 and 500,000 women from non-member states work as prostitutes within its borders. Of these, the majority, it estimates, have gained entry illegally.³⁶ Further estimates reveal that in Germany 75 percent of prostitutes

³⁶ "Trafficking in Women," in *Together in Europe: European Union Newsletter for Central Europe* 91, part 4 (15 June 1996), cited 10 Oct. 1999 (<http://www.europa.eu.int/ce/conen/dg10/inform/news/epage/news-91.html#12>). Jeremy Harding, "The Uninvited," *London Review of Books* 22.3 (3 February 2000): 3, rightly advises readers that numbers like these cannot be verified due to the illicit status of these women.

Chapter Three: Trafficking the Union

3.1 Introduction

This section aims to introduce and discuss the policy environment in the EU on the problem of trafficking in women. Picking up from the dominant feminist theory on trafficking and prostitution presented in the previous chapter, a discussion of the impact of that debate on EU policy is taken up here. The chapter begins by presenting how the problem manifests in the EU. It then moves on to discuss EU versus member state competency to act on the issues. The chapter culminates in a discussion of the European Commission's 1996 Communication which forms the basis for EU policy on trafficking in women. Post-communication policy instruments are presented and the chapter ends in a discussion of the "repressive" quality of the EU approach.

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are foreigners, 80 percent in Milan and 90 percent of sex workers in Vienna are from Central and Eastern Europe.⁷⁷ The illegal entry of women has become a salient issue in the EU since the collapse of the communist countries of Central and Eastern Europe from 1989 until present. Since restrictions on travel were loosened by the former communist countries, east to west migration (legal and illegal) has increased dramatically. Simultaneously, however, Western European borders have tightened up denying lawful means of entry to an ever increasing number of refugees and migrants.⁷⁸

Women in particular are leaving Central and Eastern Europe due in part to their economic and political dislocation in the former communist countries. *The New York Times* reports that federal employment figures in the Ukraine state that more than two-thirds of the unemployed are women. And, on average, there are thirty applicants for every job opening in Ukrainian cities. Since the Soviet Union fell in 1991, more than eighty percent of those who have lost their jobs are women.⁷⁹

Historically, the trafficking of women to Western Europe whether for prostitution, domestic labour, menial industrial labour, or sex work more broadly (including stripping, "mail order brides", escorts, etc.), has originated from Asia, Latin America and Africa. It is perhaps not coincidental that the trafficking of women has become so salient an issue since the faces of trafficked women have changed in the 1990s from black and brown to

⁷⁷"Trafficking in Women," par. 5.

⁷⁸Harding, 3.

⁷⁹"Trafficking in Sex: Women from Russia and Ukraine the Victims," *The New York Times* (11 January 1998), reprinted in *Women's International Network News*, 24.1 (Winter 1998), cited 10 March 2000 *EBSCOhost*.

white with the influx of women from Central and Eastern Europe. This shift has engendered a recent reinvigoration of discussion on "white slavery" in popular media, feminist and human rights circles⁸⁰. Kempadoo writes:

...images of 'the exotic' are entwined with ideologies and stereotypes of particular racial-ethnic difference: the 'prostitute' is defined as 'other' in comparison to the racial or ethnic origin of the client...The brown or black woman is regarded as a desirable, tantalizing, erotic subject, suitable for temporary or non-marital sexual intercourse - the ideal outside woman - and rarely seen as a candidate for a long-term commitment, an equal partner, or as a future mother...[However,] whiteness continues to represent the hegemonic ideal of physical and sexual attractiveness and desirability, and white sexual labour is most valued within the global sex industry.⁸¹

The link between specifically white prostitution/trafficking and international concern is not new, nor is it uniquely Western European. In fact, the first international convention that dealt directly with the trafficking of women for prostitution, the 1949 United Nations' *Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others*, was actually an amalgamation of previous international instruments targeted specifically at the suppression of "the White Slave Traffic."⁸²

⁸⁰Jo Doezema, "Loose Women or Lost Women? The Re-emergence of the Myth of White Slavery in Contemporary Discourses of Trafficking in Women" [sup], *Gender Issues*, 18.1 (Winter 2000): 23-51.

⁸¹Kempadoo, 10-11.

⁸²Two of the four instruments which the 1949 Convention merged were, "The International Agreement for the Suppression of the White Slave Traffic," (18 May 1904) and "The International Convention for the Suppression of the White Slave Traffic," (4 May 1910). As referred to by Laurie Hauber, "The Trafficking of Women for Prostitution: A Growing Problem Within the European Union," *Boston College International & Comparative Law Review* 21.1 (1998): 191.

3.3 EU and Member State Competencies

In discussing approaches to trafficking in the EU policy arena, it is important to note which actors have jurisdiction over what areas - otherwise policy recommendations would be groundless without an understanding of the limitations on coordinated actions. The EU (as opposed to member states) has a clear mandate over issues of immigration according to Article K.1 of the Treaty on European Union (TEU - see Appendix 1 for complete text of Article K.1). Of particular note to trafficking is the Union's capacity to set the "conditions of entry and movement by nationals of third countries on the territory of Member States," as well as third country nationals' conditions of residency. The same Article specifically identifies the "combating [of] unauthorized immigration, residence and work by nationals of third countries". Further, sub-section nine authorises Community jurisdiction over "police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime."⁸³ Therefore, trafficking of women falls under EU competency as a policy issue directly in matters of and relating to entry into, movement within, and exit from member states of women trafficked from non-member countries.⁸⁴ As a result, we can expect that EU policy on trafficking will frame the issues most dominantly as relating to transgressed

⁸³Title VI, *Provisions on cooperation in the fields of justice and home affairs*, Article K.1, Treaty on European Union (TEU), signed in Maastricht on 7 February 1992 <<http://europa.eu.int/abc/obj/treaties/en/entr2g.htm#17>>

⁸⁴Article K.1 forms part of the third pillar on Justice and Home Affairs and although under EU auspices, it is subject to intergovernmental bargaining wherein all member states have the right of veto.

borders and illegal immigration, since these are the ways the EU can most readily address the problem in a coordinated fashion.

According to the principle of subsidiarity,

in areas which do not fall within its exclusive competence, the Community shall take action...only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community. (See Appendix 2 for complete text on subsidiarity.)⁸⁵

In general, actions that are not specifically within the EU's jurisdiction should be negotiated at the lowest level possible. As such, member states, and in some policy contexts, local governments are allowed greater latitude in implementing and interpreting EU directives.⁸⁶ In regards to trafficking, this principle dominates EU action because many of the issues around trafficking fall into that nebulous category that is social policy which lies in member states' jurisdictions. Particularly, areas that touch on welfare policy and law enforcement (as Europol is largely an information gathering institution and does not handle enforcement independently) are clearly handled by member states.

Two trends in EU policy concerning both women and immigration must be highlighted when discussing EU responses to trafficking. First, despite the general lack of Union action in the realm of social policy, "women's issues" receive a relatively great

⁸⁵Article 3b, Treaty Establishing the European Community (TEC), signed in Rome on 25 March 1957, as inserted by Article G(5), TEU
<http://europa.eu.int/abc/obj/treaties/en/entr6b.htm#Article_3b>

⁸⁶Jeremy Richardson suggests that subsidiarity erodes the power of EU legislation, resulting in Commission Directives that act more as "framework laws" than specific policies: "Eroding EU Policies: Implementation gaps, cheating and re-steering," European Union: Power and Policy-Making, ed. Jeremy Richardson (London: Routledge, 1996) 292.

amount of attention in the EU. Hoskyns argues that this is due to the efforts of women who have organised internationally and who have used the EU's focus on economic processes strategically in order to cause spillover into social policy. This is particularly evident in policy emerging from women's labour market participation which by definition has great social implications.⁸⁷ Because women's groups have been relatively effective in EU policy participation generally, it is not surprising that they have been instrumental in the EU's approach to trafficking.

In specific relation to trafficking, the history of EC/EU attention to women's conferences on the subject has been quite remarkable. The first (European) workshop significant to Community action was held in Rotterdam in April 1983. This conference involved "women who were active against or escaping from international trafficking and cross-border prostitution."⁸⁸ This conference led to the European Parliament's Women's Committee report on violence against women and reflected its feminist roots in citing the 'unequal division of power between men and women' as the primary cause of these forms of violence. This report formed the basis of the second action programme for women (1985-1990) which was adopted in 1986 by the Council of Ministers.⁸⁹

This pattern was repeated with the Commission's international meeting, *European Conference on Trafficking in Women* held in Vienna in 1996 (hereafter, the Vienna Conference) which led to the 1996 *Communication from the European Commission to the*

⁸⁷Hoskyns, 209-210.

⁸⁸Ibid, 155.

⁸⁹Ibid.

Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation (hereafter, the Communication). The document outlines a framework for a European approach to trafficking that is deeply influenced by feminist positions on the issue.

The Vienna Conference on trafficking officially launched the issue onto the Union's political agenda. Feminist academics and activists, EU and international government officials, policing agencies, and non-governmental organisations interested in trafficking and prostitution were all invited to attend. The conference centred on "immigration policy and trafficking in women as an illegal form of immigration, legal cooperation and changing legislation to provide for strengthened penalties, cooperation in the application of laws, and the support of victims and protection of witnesses."⁹⁰ It was particularly significant because it was the first conference held with the aim of drafting EU policy that brought together such a great variety of transnational actors in order to craft a European approach to the problem rather than concentrating on the mechanisms of individual member states.⁹¹ However, while "women's issues" are often brought to the fore via EU institutions, the opposite is true of immigration policy.

Interestingly, Hoskyns notes that although immigration is clearly to be handled by the EU, the platforms that have been most forceful in this area (Schengen, Trevi, and the Ad Hoc Immigration Group) have emerged not out of Union institutions, but from

⁹⁰"Trafficking in Women," par. 3.

⁹¹European Community policies in the form of parliamentary resolutions and Council recommendations on trade in women were drawn up as early as 1989, but the 1996 conference was unique in the variety of groups (particularly NGOs) and agencies participating.

intergovernmental mechanisms “outside the Community system and away from public scrutiny.”⁹² In these matters, the Commission tends to serve as an information resource rather than as a coordinating body. Hoskyns posits that this shift away from public scrutiny has resulted in a “tradition-oriented, nation state dominated version of European identity.”⁹³ Further, the Commission’s power in this regard as an initiator of legislation is circumscribed and its action is tacitly confined to research that often does not result in concrete action.⁹⁴ It remains to be seen if this will be the case concerning the trafficking of women. The Commission’s Communication, the most detailed EU report to date, was released approximately three years ago with the intention of creating EU policy directly from that document. Although a joint action on trafficking was adopted in 1997, little has been implemented by way of enforcement.

3.4 Defining the Issue

As a direct result of the Vienna Conference, legislation has been developed through the European Parliament, and opinions on trafficking have been rendered by the

⁹²Hoskyns, 173.

⁹³Ibid, 174.

⁹⁴Through the Treaty of Amsterdam (2 October 1997), the EU has sought to remedy this situation by extending the Commission’s right of initiative on all areas under the third pillar (as opposed to only six over which it previously had initiative). “Joint actions” have been replaced by “framework decisions” and “decisions” which are more binding than their predecessor. The Treaty of Amsterdam enabled the Schengen agreements to fall under the Union’s framework along with all initiatives relating to justice and home affairs in order to avoid a repeat of the lack of transparency of the Schengen negotiations. No decisions on trafficking have been rendered since the Treaty of Amsterdam came into effect, except in regards to applicant countries’ participation in the fight against trafficking as a condition of accession to membership.

Committee of the Regions, the Commission and the Council. The mandate of the Europol Drugs Unit has been expanded to include the "combating [of] trafficking in human beings,"⁹⁵ rendering it the primary intelligence gathering agency responsible for monitoring the situation. So far, most of the legislative measures that have been brought forth focus on the coordination of judicial response among member states including the basic dictate that all EU states must declare the trafficking in human beings illegal.⁹⁶

A discussion follows below of the legal and non-legal instruments conceived by the EU to combat trafficking in women. The principal document that deals with the issue is the 1996 Commission Communication.⁹⁷ The following section will focus on the Communication.

The 1996 Commission Communication

The Commission's report aims to "promote a coherent European approach"⁹⁸ to trafficking specifically by recommending a common definition of the problem and soliciting member states to coordinate efforts to combat the problem. Since it is lengthiest European policy document on the subject, and forms the basis of EU policy on

⁹⁵European Council, *Joint Action 96/748/JHA of 16 December 1996 adopted by the Council on the basis of Article K.3, TEU, extending the mandate given to the Europol Drugs Unit*, cited 27 October 1999, EUR-Lex. Document 496X0748.

<http://www.europa.eu.int/eur-lex/en/lif/dat/1996/en_496X0748.html>

⁹⁶Hauber, 189.

⁹⁷European Commission, *Communication from the European Commission to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation*, 20 November 1996 <<http://europa.eu.int/en/record/other/womantraf.htm>>

⁹⁸Ibid, 3.

trafficking, it will be the focus of the discussion here. It should be noted that this document is also mindful of all the past EU documents on the subject and thus incorporates their findings and definition of terms. The following section refers only to the Communication, unless specific references to other instruments are made.

The Communication defines trafficking as "the transport of women from third countries into the European Union (including perhaps subsequent movements between Member States) for the purpose of sexual exploitation."⁹⁹ It goes on to define trafficking for the purpose of sexual exploitation as covering:

women who have suffered intimidation and/or violence through the trafficking. Initial consent may not be relevant, as some enter the trafficking chain knowing they will work as prostitutes, but who are then deprived of their basic human rights, in conditions which are akin to slavery. The Communication does not however seek to address the question of women who are not put under duress by a third party to travel to work as prostitutes over borders, nor does it address the question of black labour in other sectors in the European Union.¹⁰⁰

Furthermore, a distinction is made between trafficked women and those who enter the Union legally with a short term residency visa or work permit and work as "dancers" for example; the Communication warns that "this may be a cover for prostitution"¹⁰¹. While these definitions seem clear, the document as a whole reveals some inconsistencies of terms - these will be explored below along with a discussion of particular terms and framing devices contained in the Communication.

⁹⁹Ibid, 4.

¹⁰⁰Ibid.

¹⁰¹Ibid.

Prostitution and Sexual Exploitation

A general language shift in trafficking policy has occurred away from "prostitution" and towards "sexual exploitation". In EU policy on the matter, this is evident from the 1993 Justice and Home Affairs *Recommendations on Trade in Human Beings for the Purposes of Prostitution*, and the European Parliament's *Resolution on the exploitation of prostitution and trade in human beings* adopted on 14 April 1989, to this Communication which refers to "Trafficking for the Purpose of Sexual Exploitation". This is also evident in other international instruments such as Council of Europe's efforts: From *Recommandation 161 (3 mai 1958) de l'Assemblée consultative demandant une ratification rapide de la Convention internationale du 2 décembre 1949 pour la répression et l'abolition de la traite des êtres humains et de l'exploitation de la prostitution*,¹⁰² to its 1998 *Action Against Traffic in Human Beings for the Purpose of Sexual Exploitation*. As it was briefly mentioned in the last chapter (note 67), the Movement for the Abolition of Prostitution and Pornography has leveled criticism against this language shift in trafficking discussions. It argues that the concept of sexual exploitation "allows one to totally avoid any reflection on prostitution or the system which legitimises male domination of women"¹⁰³ and further, that the move away from the word prostitution has been engineered by pro-prostitution groups in order to remove

¹⁰²Consultative Assembly recommendation 161 (3 May 1958) for the rapid ratification of the *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* - approved by the United Nations General Assembly in its resolution 317 (IV) of December 2, 1949, opened for signature at Lake Success, New York, on 21 March 1950

¹⁰³Marcovich and McGowan, p. 1

the concept from trafficking discussions to allow anti-trafficking campaigns to not impinge on support for prostitution. While this may indeed be true (GAATW and other prostitution groups have lobbied for such changes), it is another matter as to whether a real conceptual shift has occurred in policy on the matter.

Despite the Communication's invocation of the broader notion of sexual exploitation, prostitution is the only recognised destiny for trafficked women. Women trafficked for work as nannies, homemakers, or other forms of labour such as agricultural or industrial work are not considered in this context. When women from third countries who participate in "legitimate" forms of labour are discussed in the EU arena, they tend to be referred to as "migrant workers", with some, but generally little distinction between male and female migrant workers. The "illegal trafficking of migrant workers"¹⁰⁴ is mentioned sporadically in other contexts but has not received the same kind of isolated attention as the trafficking of women for sexual exploitation. This is significant because the Communication's definition of sexual exploitation does not refer to an a priori exploitation of gender in terms of why women as opposed to men are more likely to be trafficked. Rather, it refers to sexual exploitation in terms of work in prostitution and related industries. Prostitution, therefore, is in no uncertain terms equal to sexual exploitation.

¹⁰⁴This phrase is used in European Commission, "The Opinion of the Economic and Social Committee on the 'Elaboration of an initiative aimed at establishing a regulatory framework for the employment of migrant agricultural workers from non-EU states'," in Official Journal of the European Communities (C204/19), 18 July 2000, [cited 18 July 2000], EUR-Lex.

Consent and the Forced vs. Voluntary Distinction

Groups like the one identified above complain also about a shift from prostitution as a blanket term, to "forced prostitution" because it implies that there is such a thing as "voluntary prostitution" which is problematic because it prohibits a "global understanding of prostitution as one of the many forms of violence against women".¹⁰⁵ Indeed, this shift has also occurred in the EU policies, but it does not necessarily entail tacit support for prostitutes' rights or even the regulation of prostitution, as is suggested by such groups. Jo Doezema, a sex worker rights advocate, writes, "no international agreement condemns the abuse of human rights of sex workers who were not 'forced'".¹⁰⁶ The Communication mentions that "women who enter the EU in licit employment, but who are forced into prostitution also need to be informed of their rights and helped to gain access to systems for the protection of those rights."¹⁰⁷ Here, prostitution is characterised by implication as an illicit activity and the rights referred to are those that would get women out of the prostitution circumstance.

Another way that forced prostitution is mentioned is in the context of the regulation of activities that might serve as a front for it. The Commission calls for the development of occupational health and safety regulations for "au-pair girls, bar and restaurant employees...in order to avoid exploitation" so that "through these controls,

¹⁰⁵Marcovich and McGowan, 1.

¹⁰⁶Jo Doezema, "Forced to Choose: Beyond the Voluntary v. Forced Prostitution Dichotomy," in Kempadoo and Doezema, 41.

¹⁰⁷*Communication*, 10.

cases of forced prostitution may be brought to light."¹⁰⁸ While these types of actions are probably desirable for any workplace in order to prevent workplace injury and exploitation, it is important to note that the Commission does not suggest such labour standards for prostitution, even in member states where prostitution is regulated (the Netherlands, Belgium, and less liberally, Austria). Prostitution rights advocates argue for just such occupational health and safety regulation as an essential component of the recognition of prostitution as a legitimate form of labour. The Commission, however, wishes to contain its action on trafficking to an implication of prostitution in a negative sense, while not directly engaging with that question by even once referring to legalised or regulated prostitution.

Policy-makers are unwilling to broaden the definition of trafficking beyond the scope of prostitution because they do not want to legitimate prostitution by recognising it as a form of work/labour akin to domestic, agricultural, or factory labour¹⁰⁹. If they were to classify trafficking as a vehicle to deliver workers to jobs, their categorical problem would become twofold: First, prostitution would have to be recognised as work whereby money is exchanged for a service and the prostitute is both worker and boss, in that she (or her pimp/trafficker) sets the rate of pay and determines the nature of the services to be delivered. Second, the forced versus voluntary dilemma must be directly engaged. In some ways it is much harder to imagine a woman being forced into factory or domestic labour than into the sex trade. That is to say that often women who are duped into

¹⁰⁸Ibid, 19.

¹⁰⁹Altink, 3.

trafficking are promised just such "legitimate" work and then find upon arrival in the new country, that they must work as prostitutes in order to pay their debt. So, women will often voluntarily put themselves in the hands of traffickers in order to work abroad in domestic or factory jobs. If we were to imagine a woman who would voluntarily do that to work in the sex industry, a whole other debate must be engaged that would quickly fall into the rights advocates versus abolitionist debate. Can women actually choose sex work? Not, as described in the previous chapter, according to MacKinnon and others who contend that the "choice" is a chimera because women do not possess their sexuality and by extension, their bodies, as long as prostitution is an option. The "choice", therefore is an illusion based on an inauthentic foundation that is determined by the sexuality construct.

The Communication's definition of trafficking quoted above states that it will not address 'women who are not put under duress by a third party to travel to work as prostitutes over borders'. This would seem to imply that prostitution does not have to occur under duress, and that presumably a woman could choose to work as a prostitute "over borders". However, this view is tempered by references to the "irrelevance" of the trafficked woman's initial consent which be taken up in detail below.

Women, Victims and Witnesses

An interesting shift in language follows the journey of the trafficked woman in the various stages of her traffic - from women to victims to witnesses. This language limits our understanding of trafficked women as voiceless and powerless. By treating trafficking as the problem, rather than a symptom of larger structural problems, women are doubly

victimised in that their motivations are supposed and spoken by others at the expense of their long term security. This section will discuss these points by turning to the language used in the Communication.

The noun "women" appears a total of 66 times in the main text of the Communication (not including the use of the word in titles of conferences, documents, reports, etc. appearing in the footnotes, or any of the appended information). Of these uses, 33 refer to women before and during her traffic (as in "trafficking in women"). After trafficking has occurred, "women" is used only 5 times (as in "women who were trafficked"). The remainder of uses refer to women more generally and do not relate to the specific circumstance of trafficking (as in "human rights of women" or "women's groups"). The nouns "victim" or "victims" appear a total of 63 times. "Victims" refer to women during and after her traffic, with "potential victims" describing (only three times) women before trafficking. "Witness" refers to trafficked women who testify against her traffickers after the fact, and it appears nine times throughout the document. Therefore, we observe an evolution of the policy object from woman to victim to witness that reflects her temporal stage in the trafficking chain. This has interesting consequences for our comprehension of the problem in terms of how and when we understand women as agents in trafficking. This will be taken up below.

The Communication repeatedly characterises women's consent to the trafficking process as irrelevant because of the necessary deprivation 'of their basic human rights, in conditions...akin to slavery' (see definition, note 100). Another reference is as follows:

"The Commission considers it imperative that agreement is reached on the following key issues: the need to take account of the abuse and exploitation of the particularly

vulnerable position and dependency of the victims regardless of apparent consent."¹¹⁰

The spirit behind this language is probably well-intentioned: it means to allow arrest of traffickers even if trafficked women admit voluntary participation, as well as to establish a universal understanding of trafficking as a basic human rights violation. The thinking here is that traffickers might threaten women into denying abuse by claiming their consent to their situations. While this does indeed occur, consent here is necessarily logically irrelevant because the people who are subjected to the abuse and exploitation are "vulnerable", "dependant" "victims". A dictionary definition of "victim" is "an unfortunate person who suffers from some adverse circumstance; a person who is tricked or swindled". If deception is always at the root of how trafficked women are characterised, there exists no position of power from which to assert consent because women are by definition unknowing.

This language precludes a reading of women as self-determining rational agents. For instance, it prohibits the possibility of a woman who is willing to be subjected to abuse and inhumane treatment, possibly risking death, as a trade-off for entry into the EU, regardless of the cost of getting there. That is not to suggest that the kind of treatment she may endure is by any means acceptable, but rather to deny that she cannot be aware of the danger or risks and still choose to submit to it. Said more directly, the label of "victim" implies a shared experience of all women in trafficking. The victim moniker in combination with the emphasis on forced prostitution, repeatedly recasts trafficked women as duped innocents who did not choose to be used in the way they were. The

¹¹⁰Communication, 13.

negative implication is that women who choose prostitution (if it is even acknowledged that a choice exists), are guilty and sexually deviant. This image of the naïve trafficked woman serves to support stereotypical notions of non-Western or non-Northern women as generally unaware, in need of protection, and by extrapolation, inherently apolitical in the sense that their relationship with and within power structures is determined by others and not by their own analyses.

A second effect of the removal of women's ability to consent to trafficking is that it deflects attention away from the destination state's implicit role in the trafficking process - after all, trafficking can only occur if a border is crossed, so two states are necessarily involved. This occurs on two levels: first, countries of origin and countries of destination are always referred to as "source" countries and "receiving" or "host" countries respectively. This implies an active role for "source" countries as the supplier of trafficked women, versus a passive role of host for "receiving" countries (in the same way a sender of a parcel is the initiator of the act and its recipient comes into possession of it regardless of will). Second, this is problematic because, if the policy environment was to recognise that some women are willing to subject themselves to abuse, slavery-like practices, and possible arrest, in order to gain entry (for whatever reasons) into the destination state, it would then have to investigate why women are so motivated and how barriers to safe admission affect their participation in trafficking. In sum, changing women into victims has the double effect of disempowering women in terms of their ability and authority in self-determination, and further, permits a destination country to deflect responsibility in the trafficking process by focussing attention on traffickers as aggressors and women as victims.

The woman turned victim turns again into witness. This is a particularly important identity site as it is the only context in which the trafficked woman is given voice. Here, her role is predetermined - she is on the side of the destination state and is to testify against her traffickers for the abuses she incurred. In exchange for her witnessing, the Communication suggests that she is granted temporary residence status until legal proceedings come to a close. It states that "fear of repatriation prevents them [trafficking victims] from cooperating with authorities against traffickers," yet repatriation is still the result, just delayed by the trial.¹¹¹

There is one final role that a trafficked woman might be allowed to embody according to the Communication - that of anti-trafficking activist. It is only hinted at once in the third to last page of the report in the following: "perhaps some victims could be offered an active role in their own rehabilitation, i.e. designing, setting up and carrying out campaigns in the country [of origin]."¹¹² The absurdity of this tentative award of partial self-determination *after* repatriation is quite overwhelming. It is utterly fatuitous because it is absolutely the first and only reference to an active role for a trafficked woman in her own experience. This statement illustrates more clearly than any other the Commission's chauvinistic belief that it is within the full purview of its rights to authorise, define and activate its policy objects at will. So magnanimous is the sovereign power that trafficked women might, just maybe, be allowed to have a hand in fixing

¹¹¹In the Netherlands, Belgium and Austria, women are granted temporary resident status just long enough to testify against her traffickers. Only after the trial will she be deported.

¹¹²Communication, 23.

themselves up.

This section has presented some of the key elements that have shaped the EU policy environment on trafficking in women. While many of the specific elements of the Communication have been omitted, the main points that define the problem and the responses available as a result of that definition have been brought to the fore. The next section briefly introduces the two major policy pieces since the 1996 Communication keeping in mind the issues raised in the discussion above.

Post-Communication Legal Instruments

The most recent formal policy on the issue is the 1997 *Joint Action to Combat Trafficking in Human Beings and Sexual Exploitation of Children*.¹¹³ It focuses on establishing common rules to "fight against certain forms of unauthorised immigration," and to improve judicial cooperation in criminal matters. While the language in this document has changed in that it discusses "human beings" rather than women, and deals with children in the same instrument (the Communication explicitly calls for dealing with the trafficking of children separately), it takes the same jumping off points as the Communication. Here, trafficking is even more definitively tied to prostitution:

- Trafficking: any behaviour which facilitates the entry into, transit through, residence in or exit from the territory of a Member State for gainful purposes with a view to the sexual exploitation or abuse of the adults or children involved;

¹¹³European Council, *Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children.*

- Sexual exploitation in relation to an adult: at least the exploitative use of the adult in prostitution.¹¹⁴

The main recommendations for member states are that they define trafficking as above, with further criminalization of "sexually exploiting a person...for gainful purposes, where use is made of coercion, in particular violence or threats, or where deceit is used, or where there is abuse of authority or other pressure such that the person has no choice but to submit to the pressure or abuse of authority."¹¹⁵ This language is more specific than that of the Communication and appears to recognise negatively that trafficking could occur under circumstance where people had a choice to participate. However, it also states that member states should not only criminalize coercive behaviour but also trafficking in persons with a view to their sexual exploitation as described in the general definition (above) which equates sexual exploitation with "at least the exploitative use of the adult in prostitution." Therefore the same anti-prostitution tone is taken in this document as it is in the Communication. The same language is used in the Joint Action as in the Communication in reference to trafficking victims and witnesses after the fact.

The next major EU document on the subject of trafficking is the Commission's 1998 *Communication to the Council and the European Parliament proposing further action in the fight against trafficking in women*¹¹⁶. The 1998 Communication serves more as a report card on the status of EU measures on trafficking since its 1996

¹¹⁴Ibid, 1.

¹¹⁵Ibid.

¹¹⁶Available at: <<http://europa.eu.int/scadplus/leg/en/lvb/133096.htm>>

Communication. The definition of trafficking remains the same as the 1996 version, but it adds that trafficking includes "all forms of sexual exploitation, including marriage for the purpose of commercial sexual exploitation." It encourages member states to provide protection for witnesses since "victims are often in an illegal situation" and announces that the Commission will propose legislation in 1999 on the issuing of temporary residence permits for victims willing to testify - however, I am not aware of any such proposal in the last year.

The 1998 Communication recognises that "development cooperation would seem to be the best way of stemming the increased trafficking in women, since poverty is the root cause." This would seem to contradict my claim that the root causes of trafficking are not being adequately addressed by EU policy on the matter. While recognition of poverty as a root cause is a necessary step, it is not sufficient. Both Communications emphasise information campaigns whereby "potential victims" will be educated regarding the dangers of trafficking through non-governmental organisations (NGOs - supported by the STOP programme discussed below). The 1996 Communication refers to existing EU programmes aimed at promotion of women's rights, democratic principles and the development of civil society in "source" countries (Phare, Tacis and LIEN programmes). The suggestion is that combatting trafficking should be tagged on as an objective of these programmes. While these are all important contributing root causes of trafficking, they do not engage directly with poverty. An identification of poverty as the root cause of trafficking without a clear plan as to how to address it is simply inadequate. Once again, it also serves to remove any responsibility for trafficking from "receiving" states - either in the context of the first world's active participation in the maintenance of a state of

poverty in the second and third worlds, or in the context of impediments to legal and safe migration of poorer peoples to first world states.

Non-legal Instruments

Also developed by the EU are two principal non-legal measures - the STOP and Daphne programmes. They are both designed to promote information sharing among EU member states and contiguous "source" countries in an effort to combat "violence against children, young people and women."¹¹⁷ These programmes also aim to educate women who may become involved in trafficking and/or prostitution as to their dangers and the (il)legality of all aspects involved. STOP (Sexual Trafficking of Persons) establishes a framework for information, training, research and exchanges for police, immigration officials, judges, etc. on trafficking. Daphne aims to support NGOs that combat violence in general, and against women and children in particular, including trafficking.

3.5 Conclusion: Instruments of Repression

Marjan Wijers has termed the traditional approach of states to trafficking as "repressive". Repressive policies focus on stricter penalization, tougher immigration laws and more effective prosecution.¹¹⁸ Rather than focusing on the needs and situations of

¹¹⁷Committee of the Regions, *Opinion of the Committee of the Regions on the 'Communication from the Commission on violence against children, young persons and women'...* Article 1.5.3, in Official Journal of the European Communities C198/61 (14 July 1999) cited 10 October 1999, EUR-Lex.

¹¹⁸Wijers, 78.

trafficked women, repressive policies tend to treat the “receiving” state as the victim in trafficking. Passive, and unaccountable, it is the victim of illegal migration and a grudging actor in a vicious sex industry. The thinking behind this response is that closing borders, applying increasingly deterring penalties and deporting illegals will put an end to trafficking. If taken to an extreme, this logic is compelling. At the furthest extreme, one might imagine border guards stationed at close intervals protecting the periphery and that alone could put a halt to the problem. However, the repressive approach is problematic because it tends to do further harm to women implicated in trafficking, due to its preferred primary beneficiary, the destination state. This is perhaps best illustrated in the Communication’s recommendation that the possibility be examined of establishing a DNA database on “victims of trade in human beings”.¹¹⁹ It is hard to imagine how this type of intelligence gathering would be useful in any regard to trafficked women. However, the benefits to the state (EU) in terms of being able to track the movements of trafficked women once apprehended are clear. Furthermore, whether the destination state actually benefits from a repressive approach is at best uncertain. This is after all, the main approach adopted not only by the EU, but internationally, and has been for years - yet trafficking continues to flourish. It is only with a sharp change in policy direction that the root causes of trafficking might be curtailed. This will be discussed in the next chapter.

This chapter has sought to present the policy environment around trafficking in the EU using some of the terms and problems raised in the previous chapter. Given that the EU policy is heavily informed by the dominant feminist debate on trafficking, this

¹¹⁹*Communication*, 15.

chapter aimed to illustrate that despite topical shifts from abolitionist to regulationist language, it has generally taken up the latter's view of the problem. It has shown that in the EU, (1) trafficking is inexorably linked to prostitution which is characterised as sexual exploitation; (2) trafficked women are rendered undifferentiated, apolitical and powerless in their representation as victims; (3) this serves to remove culpability from the destination state in the trafficking process; (4) the only opportunity for women to voice their experiences in trafficking is in the context of witness where her status as victim has been predetermined; (5) all of these factors contribute to a repressive policy approach that endeavours to serve the interests of the state over those of trafficked women, but does so in the name of combating violence against women.

The following chapter aims to tie together all the elements presented to this point. In the context of returning to the core problem, that integration theory's definition of the political is limited and privileges certain types of questions over others, it examines the relationship among integration theory, feminist theory on trafficking, and the EU policy environment on trafficking and seeks to show how they enable each other. Furthermore, it will argue that new approaches which focus on a diversity of possible questions are needed to overcome the limitations typified in these three areas.

Chapter Four: Making Links and New Perspectives

4.1 Introduction

The core argument of this project is that European integration theory's definition of the political is limited and as a result, it can only ask certain types of questions at the expense of others. Chapter One sought to introduce the basic tenets of intergovernmentalism and neofunctionalism highlighting their common assumptions and definitions of the political. The purposes of that chapter were to define the political in dominant integration theory, to illustrate that this body of theory dominates the field of European studies, and to explore to some extent its limited application, especially in matters relating to "social" policy. Specifically, while intergovernmentalism or neofunctionalism might be able to inform us on how a policy comes onto the EU agenda and if and how it stalls or promotes deeper union among the member states, it cannot account for the substantive qualities of that policy's contribution (or lack thereof) to integration. For instance, two key questions that might be asked around any EU policy are, "What are the conditions of possibility for integration to result from this policy or policy process?", and "If integration is achieved, at what cost?" Both of these questions might be answered by integration theory in terms of gains or losses of power either by EU institutions or by member states, or perhaps in terms of compromises being reached in one policy area at the expense of another that was less popular. But those answers do not address a fundamental privileging of a particular relationship within the policy of its subject to its object and the resulting silences or legitimization of certain types of authority

over others.

Chapters Two and Three seek to address these types of questions by way of exploring discursively the conditions of possibility for an EU approach to the problem of trafficking in women. Policy debates concerning social and labour questions specifically geared toward women in the EU arena have routinely involved the participation of feminist groups; as Hoskyns noted (Chapter Three), feminist organisation has been pivotal in getting these issues on the agenda in the first instance. The policy environment on trafficking has not proven an exception - the language of the feminist debate on the subjects of trafficking and prostitution is taken up in the 1996 Commission Communication which set the background for future EU policy on trafficking. Chapter Two presents and discusses the feminist debate around trafficking and Chapter Three, drawing on that debate, explores the EU policy environment on trafficking while critically evaluating the significance of the policy's framing and language.

This chapter seeks to link the previous three by drawing out the commonalities in integration theory, feminist theory and EU policy on trafficking. It begins with an exploration of the seemingly opposite goals of feminist positions on trafficking which focus on the interests of the trafficked woman, and the EU's repressive policy goals which relate to the interests of the state in terms of protection from unwanted forms of migration. Despite their apparently incompatible premises, their responses to the problem are the same. The next section explores the limits of integration theory when applied to trafficking and relates this to the similarity in feminist and EU approaches through a closer exploration of the dichotomous relationships produced and mutually enabled by all three elements. The chapter concludes with some suggestions as to how to overcome the

impediments of these approaches with an alternative type of integration theory that is more attentive to a diversity of possible questions that need to be posed. This is applied specifically in a recommendation on how to approach trafficking policy so that it deals with the problem more effectively from the EU's point of view by keeping trafficked women's concerns and positions at the fore.

4.2 Strange Bedfellows: EU and Feminist Theories

Trafficking in women as a subject of feminist inquiry is not surprising given that it fits in with the frequent male bias in migration studies. Lister notes that mainstream migration literature often deals with male migrants (often for work) and appends women as dependants of those men¹²⁰. It often ignores women who migrate of their own right for work or other reasons. Interestingly, trafficking in women is gaining a lot of attention lately, in mainstream literature as a feminist subject centred on female migration, illegal immigration, criminality and violence. But the question is why is there room for this type of discussion in mainstream literature in its specific instantiations of forced migration and women as victims of sexual predators? Is it on some level easier to talk about women forced to migrate, cast in sexual slavery than it is about women moving, migrating for work? How can we more easily pay attention to obviously sexualised, naïve victim-women than women who consciously choose to migrate for economic relief or improvement of standard of living or do a certain type of work because it appeals to their

¹²⁰Ruth Lister, *Citizenship: Feminist Perspectives*, (London: MacMillan Press, 1997).

lifestyle goals? In other words, does the sexualised victim-woman fit our political imagination better than the primordially politicised economic-citizen-woman? The following section seeks to probe this question by drawing out the similarities in the EU policy response and dominant feminist readings of trafficking.

The EU's policy responses to trafficking are largely influenced by feminist debate on the subject, particularly through the Commission's 1996 Vienna Conference. Feminist participation in the determination of this policy is interesting because it would seem out of line at first glance. Feminists (both abolitionists and rights advocates) approach the problem of trafficking in women from a human rights perspective in the interest of advancing the status and opportunities for women - however the route to achieve those things may vary among feminist groups and other interested parties. Governments, on the other hand, including the EU, tend to approach the problem as one of illegal immigration. Trafficking is problematic for governments/states because it challenges the sovereignty of their borders, thereby undermining state authority and poses a host of domestic problems such as employment issues, prostitution regulation, or possibly ethnic strife if large pockets of cultural/ethnic minorities establish in a "receiving" state. When the first approach is aimed at the "victim" of the act of traffic, and the second is aimed at an interest that is directly opposed (for if the receiving state was truly receptive, then the woman would not have entered via trafficking, and possibly not under the same job conditions), how can these two approaches end up in bed together, the first directly informing the second?

In the EU's response to the traffic of women and in dominant feminist analyses of the problem, certain categories are assumed and unquestioned due to the selection of the

focal point of analysis - the moment of traffic. Because Europe is constructed horizontally in terms of external and internal, exclusion and inclusion, and vertically in terms of national and supranational (see Chapter One), attention is drawn to the transgression of those binaries. Trafficking is an issue that must be dealt with “at the European level”. If the “uninvited” enter a member state, they no longer simply threaten the integrity of that state, but that of Europe as a whole. The security of that external border is challenged by those uninvited who wish to cross it to get inside. Europe is, and must be, by its constitution qua integration theorists, a “fortress” where internal and external sovereignty are protected at all costs. That which is inherently/internally “European” must be protected from that which is clearly non-European. The policy response then, is to tighten border controls and increase policing of prostitution in the hopes of getting successfully trafficked but illegally residing women to testify against their traffickers. Hence the granting of temporary residency to women who will do just that (deportation is delayed until after legal proceedings).

Interestingly, these lines of action, policing prostitution and stricter border controls, are often the recommended courses of action put forth by feminist analyses of trafficking of women. The instance of traffic is largely the main focal point in this literature as well. This is in part due to the extreme violence incurred by women being trafficked. In the process, some women continue to be beaten, raped, hooked on drugs, and murdered. Like official government responses, some feminists hold traffickers responsible from start to finish. The category of trafficker, becomes synonymous with criminal man, and illegitimacy. The solution to that problematic actor is to chain him

down to prevent future violations against women's bodies and rights.¹²¹ While this tactic may work in the interim, it denies the depth of the problem of trafficking and conveniently places the blame on an easy target, thus obviating state responsibility in the process. By fixing the category of trafficker, the conditions of possibility of trafficking remain unexplored except insofar as their technical operations (i.e. how transportation occurs, where the selling and buying of cargo takes place, etc.). The issue is necessarily reduced to a simple yet horribly violent economic exchange. As Harding writes in his account of migration and asylum in Europe:

We think of agents, traffickers and facilitators as the worst abusers of refugees, but when they extort from their clients, when they cheat them or dispatch them to their deaths, they are only enacting an entrepreneurial version of the disdain which refugees suffer at the hands of far more powerful enemies - those who terrorise them at arm's length. Human traffickers are simply vectors of the contempt which exists at the two poles of the asylum seeker's journey; they take their cue from the attitudes of warlords and dictators, on the one hand, and on the other, of wealthy states whose citizens have learned to think of generosity as a vice.¹²²

Another crucial effect of this in relation to trafficking rests in location of legitimate authority in the state as the dispenser of social justice. I have stated that some feminist analyses and EU policy responses to trafficking choose the moment of traffic as their focal point for various reasons. Underpinning that choice is the interregal status of the moment of traffic. It is the moment where illegitimacy contests the already authorised. Non-authority meets and defeats authority by the initial drawing of those

¹²¹See for example, Victoria Pope and Margaret Loftus, "Trafficking in Women," *U.S. News & World Report* 122.13 (04 July 1997) cited 3 March 2000, *EBSCOhost*; Barry; and any number of pieces from Women's International Network News, especially "Thailand: New information on traffic in women" 23:1 (Winter 1997) and "Trafficking in Sex" (cited above).

¹²²Harding, 8.

boundaries of authority. Because of the success of the traffic in penetrating supposedly sovereign states, it must be cast as outside and thus illegitimate in order to bolster the inside. The women who are implicated are in a sense the collateral damage of a war of self-defence on all sides of this brutal equation.

The next section explores this problem further by examining some of the problematic elements present in dominant integration and feminist theory, and the EU trafficking policy.

4.3 Integration Theory, Trafficking Policy and Feminist Approaches Discussed

Taken together, the two trends in EU action on social policy relating to women, and immigration policy more broadly, identified by Hoskyns and presented in the previous chapter, might explain the course of EU action on trafficking. On one hand, a policy window is opened by the willingness to involve feminist groups in policy consultation, but on the other, that window must exist within the limits imposed by the structural constraints on EU immigration policy negotiation. Integration theory can take us this far in our analysis. The conditions under which a policy emerges is an extremely important point to make and has been arrived at first, by looking at the functional spillover and interest group participation involved in promoting a feminist agenda in EU social policy. Second, the intergovernmental qualities of the EU approach to immigration were noted. But what can integration theory teach us about the substance of a policy like trafficking that embodies these seemingly opposite trends?

Integration theory might allow us to posit that the policy recommendations for

trafficking will take into account feminist opinion. Further, issues concerning women will be dealt with more by interest groups and EU institutions because these are not matters of security which are traditionally more compelling for member state interest. We could argue with relative certainty that the Commission would generate a report that would consider the traditional reticence of member states to deal with immigration issues (due to its categorisation as a security problem) brought forth by EU institutions. As such, the proffered draft would most likely be highly intergovernmental in its tone in that it would probably leave great latitude for member state negotiation of the issues. Additionally, we might predict that if trafficking is to be dealt with meaningfully by the EU, it will have to be negotiated intergovernmentally on the fringes of EU institutions since it is framed as a matter of criminality and immigration. We could even argue that trafficking is cast first and foremost as a matter of criminality and immigration in order to get it on the European agenda.

However, where integration theory falls short is in explaining what is at stake when trafficking is brought up in the EU in terms of how that problem is written. In other words, while integration theory can teach us why trafficking has come up as a European issue, how it is negotiated by various parties in the policy-making process, and even explains the framing of the policy to some extent, it cannot tell us why a particular feminist view over any other is repeatedly privileged in the EU actions, or why trafficked women are objectified in these documents. More penetratingly, it cannot conceive of its own role in this objectification.

I will explain this point by way of a personal example: for my M.A. thesis I could have written a detailed analysis applying neofunctionalism versus intergovernmentalism

to the EU policy process concerning the trafficking of women. I could have sought to prove that one theory was better at explaining the question than another through a rigorous application of both to trafficking in the EU. My project would not have included the chapter on feminist theory, but would rather have provided a much more detailed analysis of interest groups, state and non-state actors and their motivations and roles, plus an in-depth examination of all the EU instruments dealing with trafficking. I would have looked at the interests at stake and come to conclusions about how trafficking as an EU policy issue contributes to European integration at large, including perhaps a study of its effect on enlargement taking into consideration the applications for EU membership of the countries of origin of trafficked women.

This would have been a novel project in that while this approach has been taken in many other policy areas, it has not to my knowledge occurred in regards to trafficking. This project would have contributed to the field in that it would have shed some light on how a policy issue is dealt with by the EU that far exceeds the economic emphasis of its originating principles. I probably would have been a happier student taking on that project because its terms are much more familiar to me - and indeed I have done that project before in the realm of parental leave policies. That would have been a totally acceptable M.A. project but it could not have considered the problems that because of integration theory's dominance as a theoretical framework, are cast outside its realm of application. What I feel are important elements of how the question of trafficking is negotiated in the European context would have been excluded from that project.

One of the major instantiations of that problematic framework is how integration theory defines its subject as presented in Chapter One. Due to its focus on the

technicalities of the policy process, integration theory reveals little about the content of policy - the agenda-setting, power relations, or cultural significance involved in policy. This reinforces an outside/inside version of policy - policy-making versus policy analysis. Externally, policy can be analysed via its process, implementation, actors, legal mechanisms, etc. Internally, policy can be analysed substantively. It is only when policy is examined through its content, therefore, that it can be said to be discriminatory, or beneficial to one group, or relevant. This relationship of process over substance is in place a priori and thus reproduced in the act of policy-making. This is problematic because it does not allow for a questioning of the process, or even how that process might determine or preclude certain policies.

Integration theory is one of the predominant lenses for interpreting the EU. The lens focuses on technical and procedural interests - the outside issues - and does not deal with the substantive qualities of the EU - the inside issues. Substance must be handled separately by other bodies of theory or modes of analysis. Substantive questions concerning gender, culture, ethnicity, class, etc. cannot be included within integration theory - other theory must take over where integration theory leaves off. The process-oriented focus is presented then, as genderless, classless, raceless, etc. - it is objective, not subjective like the inside, substantive theory. European integration as it is presented by integration theory, is genderless, classless, raceless. While gender/race/class problems may arise *within* Europe, the project of the Union, the essence of integration, cannot be seen as contentious on these grounds.

That is to say that as long as integration theory is a primary or exclusive tool used to examine EU policy processes without the accompaniment of a substantive, critical

discursive analysis of its content, form, and consequences - not just for the policy process or the actors involved, but for those who are deeply affected by those policies, either by their presence, absence or representation in them - it will repeatedly frame analyses in a particular way through the marginalisation of questions that might challenge that framework. It has been my aim through an exploration of the EU's policy environment on trafficking in women to illustrate the gendered nature and gender implications of integration and integration theory. Deeper integration will likely occur due to the EU policy on trafficking, especially in regards to the development of Europol and member states' coordination of police and judicial response to the problem, but we must consider the cost - the silencing of trafficked women and their utter non-participation in decision-making regarding their treatment.

The privileging of technical efficiency and state-centricity over other substantive issues like those identified here is at the heart of integration theory's definition of the political. The political qua integration theory is about rule, the provision of security in its various forms (economic, social, military), and the protection of welfare, in the form of a constant calculation of welfare-maximisation as the basis for integrative action. This purpose necessitates a division between the state (or in this case, the EU) and the citizen where the state is self-defining and the ultimate arbiter of authority, and where the citizen under the state's purview is the constituent that is defined and acted upon by the state. The version of politics proffered by neofunctionalism is technical and progressive in nature, where politics just happens due to processes largely beyond the control of any single actor. Politics for intergovernmentalism is based on a version of the state's autonomy of decision-making. As was discussed in the first chapter, these versions of the

political cause a shift away from issues of self-actualization and identity such as culture, ethnicity, gender, class, etc., in favour notions of “power-over”.

As the various pieces in Maier’s *Changing Boundaries of the Political* suggest, a transformation in the purposes of the political have changed in recent years, and these changes have been brought about largely by social movements. On Offe’s work, Maier writes, “issues built on goals of self-actualization and highly diffuse concerns for the quality of life now shape the political agenda and challenge traditional organizations and even perceived social divisions.”¹²³ We can observe this transformation in the political in the EU’s trafficking policy environment in the involvement of feminist concerns and their influence on the EU agenda. However, as I have sought to show, this alone cannot be considered a successful re-orienting of the political towards the creation of “a milieu for authenticity and participation”¹²⁴, part of what I advocate as the core of the project of the political.

As long as our tools for analysing the political in the EU remain caught in a definition of the political that does not have as its purpose improved authenticity and participation, then we cannot expect to achieve those goals. By improved authenticity, I mean a better framework for policy which would include the participation of those it is meant to affect. Not only is participation key, but so too is the quality of that participation in that perspectives are allowed for that will provide greater sensitivity to a diversity of

¹²³Charles S. Maier, ed. Changing Boundaries of the Political: Essays on the evolving balance between state and society, public and private in Europe, (Cambridge: Cambridge University Press, 1987) 9.

¹²⁴Ibid.

questions that need to be posed. If integration theory purports to explain how “Europe” is produced, and if we accept that story, then we must be aware that we are accepting a body of theory that has no room for power relations, cultural affinities, affective citizenship, poverty, or ethnic tensions, except in the most cursory fashion.

Part of the sub-text of this thesis has been a portrayal of the intimate and indivisible connection between theory and practice: feminist theory informs trafficking activists and EU trafficking policy, and integration theory informs and is informed by EU policy. It follows that if we re-orient the focus of dominant integration theory away from its version of the political and towards one that embraces authenticity and participation in the form of greater critical attention to how and when various actors are represented, then this might affect how policies are approached. The same would apply to feminist theory - these goals would be put forth by feminist groups which might hold influence over how a policy will be handled, thus affecting the ultimate outcome of that policy. The following section will briefly introduce some alternatives to conventional integration theory and trafficking approaches which would help in beginning this change of focus.

4.4 New Directions

Thomas Diez provides a good starting point for an ethic of care in integration theory that would advance authenticity and participation in his “network horizon”¹²⁵.

Central to the horizon is its fluidity whereby the various functional and regional

¹²⁵Thomas Diez, “International Ethics and European Integration: Federal State or Network Horizon,” *Alternatives*, 22.3 (July-September, 1997): 287-312.

connections among units or actors are stressed and expressed over the national structures that have previously dominated. Political legitimacy is grounded in participation of those people and relations in decision-making where multiple identities are emphasised. EU institutions (and others implicated in decision-making) would work as supporters in that political endeavour by providing a framework for the realisation of the goals of respect and responsibility toward the other.¹²⁶ In such a schema, identities are recognized as multiple and overlapping:

Whereas in the nation state, one is always a member of the nation in the first place, in the case of the Network one is always bound up with a variety of groups at the same time. Since the memberships of these groups are not identical, there is no basic unitary identity that has to be constructed to locate politics on a centre stage. Instead, the multiplicity of identities that is already present in our everyday life is explicitly acknowledged in politics. Identity, then, is not the major problem. It is ubiquitous, and it is always constructed through difference.¹²⁷

This recognition and emphasis on the fluid and multiple nature of identity is at the core of what I term, based on loosely Donna Haraway's work, the immodesty imperative. The "modest witness" for Haraway is the figure of the scientist whose work is to objectively recount facts: "His subjectivity is his objectivity. His narratives have a magical power -- they lose all trace of their history as stories, as products of partisan projects, as contestable representations, or as constructed documents in their potent capacity to define the facts."¹²⁸ My immodesty imperative is a call to students of European integration to reject the narrow definition of its subject implied by the exclusive

¹²⁶Ibid, 299.

¹²⁷Ibid, 303-304.

¹²⁸Donna J. Haraway, *Modest_Witness@Second_Millennium: Female-Man_Meets_OncoMouse*, (New York: Routledge, 1997) 24.

or primary use of integration theory where the subjectivity of too many is neatly packaged and affirmed by a focus on politics as instantiated in relation to the state.

Immodesty means a recognition of the ordering of the world and politics presented in our theories, models, tests and discourses. It means we must be critically aware of how our studies affect people, policies and institutions and how these in turn shape our views.

Immodesty means a bold assertion that we as academics are not inserted after-the-fact to analyse an event, institution, or government; rather, we are always engaged in a construction of relationships that legitimise, authorise and advance certain claims over others. The immodesty imperative means that we must take responsibility for what kind of world we support, define, and propose. I choose to propose a world where identities are self-defined, partial, fluid and as such, politics can be opened up to advance the goals of authenticity and participation.

I will now turn to the problem of policy-making around the question of trafficking in women and hope to illustrate an approach that addresses the needs of the women involved, and would lead to stemming trafficking's roots.

New Directions in Trafficking

The key to forming trafficking policy sensitive to the needs and rights of women involved is to recognise the vulnerable position of trafficked women in that they are almost always in an insecure and unpredictable situation¹²⁹, either financially, socially, legally, or all of these, from start to finish in the trafficking process. Financial insecurity

¹²⁹Wijers, 77.

is common to most of the women involved in trafficking. Most of the women trafficked come from states with high unemployment generally, and high female unemployment specifically. Often poverty is identified as the singular root cause of trafficking. This is problematic because it can play into the forced versus voluntary dichotomy as in, women who are poor are forced into prostitution. While it is certainly a contributing factor, poverty should not be taken as a condition of forced prostitution/trafficking in the sense that a woman's choice in sex work should be respected regardless of state of origin, class or colour. That is, this perspective often degenerates into one where poor black women cannot authoritatively choose sex work, yet where white well-off women can.

Social and legal insecurity may manifest in the putative inferior position of women to men in terms of available jobs going to men first, for example. It can also arise in terms of women's lack of access to or participation in the political realm. Another source of social and legal insecurity applies to women who are already sex workers and then enter into trafficking. They are generally already in a doubly vulnerable position in their country of origin in that their activities are usually criminal, so reports of abuse are futile. These women more than those not previously involved in the sex trade are perhaps in the most vulnerable positions because they have always been classified as whores, or are imagined to get what they deserve if they are abused in a trafficking situation. Trafficked women are socially and legally vulnerable in the destination states as well for the same reasons noted above. Regardless of trickery or consent, if they are doing sex work, they do not generally have legal support to report violence, or social support because of the whore stigma.

When these forms of insecurity are identified as the sources of women's vulnerability, and not their naïveté or automatic victim status, then equitable policies that take into account all of the causes of trafficking may begin to emerge. This involves the reconfiguration of traditional policy relationships where the state is the active authoritative voice and the trafficked woman is the passive recipient of its protection or assistance and inevitable rejection through repatriation. Instead, a policy may be achieved where women may actively participate in identifying and working to improve their exposures.

This approach lies in sharp contrast to the repressive approach introduced in Chapter Three. Wijers writes that repressive strategies

have a strong tendency to end up working against women instead of in their favour, for example, by restricting women's freedom of movement or by using women as witnesses for combatting organized crime in the interest of the State without allowing them the corresponding protection.¹³⁰

These repressive approaches do not take as their starting point women's needs, and as a result, the root causes of trafficking remain unaddressed. If the insecurities are dealt with that render women vulnerable, then trafficking would not be as pervasive a problem as it is today. This is a more difficult enterprise to undertake and goes against the grain of the way policy is structured. However, it is the only way to sincerely approach the problem in the interest of preventing the isolation and marginalisation of trafficked women, without using violence against women or women's rights as a platform for policies that bolster the state apparatus through tighter borders and tougher policing.

¹³⁰Ibid, 78.

4.5 Conclusion

This chapter has sought to unify some of the themes presented in the previous three. It emphasised some of the logic behind the similarities in responses to trafficking advocated by EU institutions and feminist groups despite seemingly opposite goals; it more fully explored the problems of inquiry posed by integration theory by examining the problematic assumptions therein; and concluded with an examination of an alternative approach to integration theory and trafficking policy that stresses a politics designed to promote authenticity and participation. The conclusion for the thesis follows with a summary of some of the salient points of this project.

Conclusion

This thesis has sought to illustrate how the rhetoric of European integration theory constructs a notion of the political that works to marginalise and isolate foundational issues such as gender, culture, class, ethnicity, etc. It has attempted to achieve that task via a discursive analysis of the EU's policy environment on the trafficking of women. In so doing, it subsidiarily argued that feminist theory, while seemingly at odds with state's in terms of basic standpoints (the protection of the woman versus the state, respectively), actually reproduces the same logic that works to de-authorise trafficked women thereby occluding them from discursive participation.

A breakdown of the sections and functions of all the chapters in the aim of proving the above arguments, was provided in the introduction to Chapter Four. Instead of repeating that here, I will turn to a summary of the principal points that I have hoped to bring to the fore in this project:

On Trafficking of Women

- 1) It is of upmost importance to expanding our understanding of the problem that women who are trafficked not be considered victims. This is not to deny the severity of the structural forces that cause women to be discriminated against economically, politically or socially. Nor is it to deny that some women are duped into trafficking and/or prostitution under false pretenses. Rather, not ascribing the victim role to women recognises first, that women are political actors. This means

that women are inherently capable of self-determination within a web of social relations. The degree to which self-determination is realised cannot necessarily be measured, but impediments to that process such as poverty, inaccessibility of political participation, non-legal citizenship status, etc. can be calculated and should be remedied.

- 2) The root causes of trafficking and their implications must be addressed by policy-makers in both origin and destination states. The root causes identified here are the vulnerable positions of women due to financial, social and legal insecurity, including, but not limited to, poverty, lack of employment opportunity available to women, the uncertain status of women as citizens and their double exclusion from full political participation as prostitutes, and the increasingly stringent criteria for entry into "first world" states. Policy and action must be directed towards these areas with the full participation of implicated women. If the policy focus remains on the illegal transgression of borders and forced trafficking, it will only serve as an after-the-fact treatment rather than a preventative strategy. Furthermore, women will remain doubly victimised if trafficking is treated exclusively rather than as a symptom of larger structural problems.
- 3) New study on migration as a gendered subject must occur. This means studying women who migrate, why they do so, what particular risks they face, and impediments to their migration. This course of study will further illuminate the

root causes not just of the trafficking of women, but also of the general conditions of women around the world.

On European Integration Theory

- 1) European integration theory must be broadened to include less state-centred, utility-maximising approaches. This means that we as students of European integration cannot make assumptions like “Europe”, “European” or “integration”. I mean by this that motivations, agenda-setting, actors, policy and language cannot be taken for granted - that the significance of each of these elements must be examined at every turn. Ultimately, Europe must be seen as a *set of practices* where not only institutions matter, but so too do discourse, networks, shared knowledge, mores, ethics, participants and, equally important, non-participants.
- 2) The insights offered by feminist, cultural, sociological, citizenship and anthropological studies (to name only a few) must not be cast as corollaries to the field of European integration, but central to it. This is not to suggest that these disciplines are perfectly whole and can rescue a flawed approach. As I have indicated through my presentation of the feminist literature on trafficking in the second chapter, these bodies of theory contain their own problems. Rather, it is my contention that these fields can complement integration studies to offer a more dynamic and fluid approach that is not as limited in its application.

- 3) We must realize our power as academics and undertake the immodesty imperative outlined here. The way we portray the world may have profound effects on who is included or excluded and why. We must embrace a politics that advances authenticity and participation in the form of attention to the diversity of questions that need to be posed, as the basis for political legitimacy. We are not silent, objective, background observers, but full participants in the subjective construction of our environment.

On Feminist Theory

- 1) There is a well-developed, although arguably still marginal, critique of the type of mainstream feminist theory on trafficking and prostitution that I have presented here. I will simply state that if feminist theory takes as its main concern the advancement of the interests of women, then it should not dictate which women should advance and which should not. Further, it should not exclude or silence or "other" women based on an all-encompassing criteria upon which a woman's authority to speak is determined.

All of these points share a common goal that is most succinctly iterated by

Thomas Diez:

The quest, then, is for a 'politics without principle' - not as nonethical politics, but exactly for ethical reasons. It is for a recognition of the 'other' not as an enemy and someone to be kept 'outside' or proselytized, but simply as an-other fellow, different but still living on the same planet, for whom we have, following

Emmanuel Levinas, a 'pre-original responsibility'.¹³¹

It is in this interest that I have hoped to advocate here an approach that moves away from the traditional dichotomous relationships involved in both dominant integration theory and feminist theory on trafficking and prostitution. The nodal points advanced by these approaches serve to obscure certain questions that are important to consider, particularly those which speak to the conditions of possibility for their very frameworks. Returning to Braidotti's call to action mentioned at the project's opening, an approach grounded in 'politics without principle' is perhaps one of the more fruitful ways that we can contribute to the rhetoric and practices of the European Union with the goal of advancing 'conditions that may lead to the creation of shared cultural and political space'.

2. rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereof;
3. immigration policy and policy regarding nationals of third countries:
 - a. conditions of entry and movement by nationals of third countries on the territory of Member States;
 - b. conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
 - c. combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;
4. combating drug addiction in so far as this is not covered by (7) to (9);
5. combating fraud on an international scale in so far as this is not covered by (7) to (9);
6. judicial cooperation in civil matters;
7. judicial cooperation in criminal matters;
8. customs cooperation;
9. police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol).

¹³¹Diez, 289.

APPENDIX 1

Articles K.1 and K.3 of the Treaty on European Union on matters of common interest and right of initiative in coordinated action

**Treaty on European Union
(signed in Maastricht on 7 February 1992)**

TITLE VI Provisions on cooperation in the fields of justice and home affairs

Article K.1

For the purposes of achieving the objectives of the Union, in particular the free movement of persons, and without prejudice to the powers of the European Community, Member States shall regard the following areas as matters of common interest:

1. asylum policy;
2. rules governing the crossing by persons of the external borders of the Member States and the exercise of controls thereon;
3. immigration policy and policy regarding nationals of third countries:
 - a. conditions of entry and movement by nationals of third countries on the territory of Member States;
 - b. conditions of residence by nationals of third countries on the territory of Member States, including family reunion and access to employment;
 - c. combating unauthorized immigration, residence and work by nationals of third countries on the territory of Member States;
4. combating drug addiction in so far as this is not covered by (7) to (9);
5. combating fraud on an international scale in so far as this is not covered by (7) to (9);
6. judicial cooperation in civil matters;
7. judicial cooperation in criminal matters;
8. customs cooperation;
9. police cooperation for the purposes of preventing and combating terrorism, unlawful drug-trafficking and other serious forms of international crime, including if necessary certain aspects of customs cooperation, in connection with the organization of a Union-wide system for exchanging information within a European Police Office (Europol).

(...Appendix 1 continued)

Article K.3

1. In the areas referred to in Article K.1, Member States shall inform and consult one another within the Council with a view to coordinating their action. To that end, they shall establish collaboration between the relevant departments of their administrations.

2. The Council may:

- on the initiative of any Member State or of the Commission, in the areas referred to in Article K.1(1) to (6);
- on the initiative of any Member State, in the areas referred to in Article K.1(7) to (9) [this has since been amended by the Treaty of Amsterdam allowing the Commission right of initiative on (7) to (9) as well]:
 - 1.1 adopt joint positions and promote, using the appropriate form and procedures, any cooperation contributing to the pursuit of the objectives of the Union;
 - 1.2 adopt joint action in so far as the objectives of the Union can be attained better by joint action than by the Member States acting individually on account of the scale or effects of the action envisaged; it may decide that measures implementing joint action are to be adopted by a qualified majority;
 - 1.3 without prejudice to Article 220 of the Treaty establishing the European Community, draw up conventions which it shall recommend to the Member States for adoption in accordance with their respective constitutional requirements.

Unless otherwise provided by such conventions, measures implementing them shall be adopted within the Council by a majority of two thirds of the High Contracting Parties.

Such conventions may stipulate that the Court of Justice shall have jurisdiction to interpret their provisions and to rule on any disputes regarding their application, in accordance with such arrangements as they may lay down.

From: <<http://europa.eu.int/abc/obj/treaties/en/entr2g.htm#17>>

APPENDIX 2

Section 3.4, Article G(5) of the Treaty on European Union on subsidiarity and proportionality

Treaty on European Union (signed in Maastricht on 7 February 1992) 3.4 Article G(5) (ex Article 3b, TEC)

The Community shall act within the limits of the powers conferred upon it by this Treaty and of the objectives assigned to it therein.

In areas which do not fall within its exclusive competence, the Community shall take action, in accordance with the principle of subsidiarity, only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale or effects of the proposed action, be better achieved by the Community.

Any action by the Community shall not go beyond what is necessary to achieve the objectives of this Treaty.

3.5 Protocol on the application of the principles of subsidiarity and proportionality

(5) For Community action to be justified, both aspects of the subsidiarity principle shall be met: the objectives of the proposed action cannot be sufficiently achieved by Member States' action in the framework of their national constitutional system and can therefore be better achieved by action on the part of the Community. The following guidelines should be used in examining whether the abovementioned condition is fulfilled:

- the issue under consideration has transnational aspects which cannot be satisfactorily regulated by action by Member States;
- actions by Member States alone or lack of Community action would conflict with the requirements of the Treaty (such as the need to correct distortion of competition or avoid disguised restrictions on trade or strengthen economic and social cohesion) or would otherwise significantly damage Member States' interests;
- action at Community level would produce clear benefits by reason of its scale or effects compared with action at the level of the Member States.

APPENDIX 3

Time line noting significant EU Activity on Trafficking in Women

1989

14 April Parliament resolution on the exploitation of prostitution and trade in human beings

1993

16 September Parliament Resolution on trade in women

29-30 November Justice and Home Affairs Recommendations on Trade in Human Beings for the Purposes of Prostitution resulting from a conference on the subject - Recommendations adopted by Council

1996

18 January Parliament resolution on trafficking in human beings. Noting that trafficking in human beings was incompatible with human dignity and worth and a serious violation of human rights

10-11 June Commission's *European Conference on Trafficking in Women* held in Vienna

20 November Commission Communication to the Council and the European Parliament on Trafficking in Women for the Purpose of Sexual Exploitation

29 November Joint Action adopted by the Council pursuant to Article K.3 (See Appendix 1 here) of the TEU, establishing an incentive and exchange programme for persons responsible for combating trade in human beings and the sexual exploitation of children (STOP)

16 December Joint Action adopted by the Council on the basis of Article K.3 (See Appendix 1 here) of the TEU extending the mandate given to the Europol Drugs Unit to include the exchange of information and intelligence on traffic in human beings

1997

24 February Joint Action adopted by the Council on the basis of Article K.3 of the TEU concerning action to combat trafficking in human beings and sexual exploitation of children

- 26 November Seminar to implement a joint EU/U.S. information and prevention campaign in Poland and the Ukraine on trafficking in women (under the New Transatlantic Agenda which focuses on increased EU/U.S. cooperation concerning all forms of international crime, among other issues)
- 16 December Parliament resolution on the 1996 Commission Communication calling member states to implement the 24 February Joint Action
- 1998**
- 1-3 October East-West Conference on Trafficking in Women hosted by LEFÖ (Lateinamerikanische Exilierte Frauen in Österreich) and the Austrian Ministry of Women's Affairs. This conference was the largest since the 1996 Vienna Conference and centred on trafficking in women in the EU with greater emphasis on Eastern European countries of origin. The Commission participated fully.
- 3 December Council Decision supplementing the definition of the form of crime 'traffic in human beings' in the Annex to the Europol Convention
- 9 December Commission Communication to the Council and the European Parliament proposing further action in the fight against trafficking in women
- 1999**
- 15-16 October Tampere European Council Meeting on the creation of an area of freedom, security and justice in the EU, calls for efforts to agree on common definitions, incriminations and sanctions for trafficking in human beings, particularly exploitation of women and children and invites the Council to adopt by the end of 2000, on the basis of the Commission's proposal, legislation to this end
- 6 December Council Decisions on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnerships with the Republic of Bulgaria, Malta, Cyprus, Slovenia, the Czech Republic, Lithuania, Estonia, Latvia, the Slovak Republic, Romania, Poland and Hungary, include the obligation to "continue the fight against traffic of women and children" as a minimum condition of accession to EU membership

BIBLIOGRAPHY

Books, Articles, Essays, Conference Proceedings

- Alexander, Priscilla. 'Prostitution: *Still* a Difficult Issue for Feminists', in Frédérique Delacoste and Priscilla Alexander, eds., Sex Work: Writings by Women in the Sex Industry, 2nd edition. San Francisco: Cleis Press, 1998, 184-230.
- Altink, Sietske. Stolen Lives: Trading Women into Sex and Slavery. London: Scarlet Press, 1995.
- Barry, Kathleen. The Prostitution of Sexuality. New York: New York University Press, 1995.
- Bell, Shannon. Reading, Writing & Rewriting the Prostitute Body. Bloomington: Indiana University Press, 1994.
- Braidotti, Rosi. 'The Exile, the Nomad and the Migrant - Reflections on International Feminism', Women's Studies International Forum, 15:1, 1992, 7-10.
- Brussa, Licia. 'The TAMPEP Project in Western Europe', in Kamala Kempadoo and Jo Doezema, eds., Global Sex Workers: Rights, Resistance, and Redefinition. New York: Routledge, 1998, 246-259.
- Butler, Judith. 'Imitation and Gender Subordination', in Linda Nicholson, ed., The Second Wave: A Reader in Feminist Theory. New York: Routledge, 300-315.
- Diez, Thomas. 'International Ethics and European Integration: Federal State or Network Horizon?', Alternatives, 22:3, July-September, 1997, 287-312.
- Doezema, Jo. 'Forced to Choose: Beyond the Voluntary v. Forced Prostitution Dichotomy', in Kamala Kempadoo and Jo Doezema, eds., Global Sex Workers: Rights, Resistance, and Redefinition. New York: Routledge, 1998, 34-50.
- 'Loose Women or Lost Women? The Re-emergence of the Myth of White Slavery in Contemporary Discourses of Trafficking in Women' [sup], Gender Issues, 18:1, Winter 2000, 23-51.
- Dudash, Tawnya. 'Peepshow Feminism', in Jill Nagle, ed. Whores and Other Feminists. New York: Routledge, 1997, 98-118.
- Falkner, Gerda. 'The Euro-Agreement on Parental Leave: Towards Corporatism in European Social Policy?', Huitième colloque international de la revue, Politiques et management public. Paris: 20-21 June 1996.

- Global Alliance Against Traffic in Women - Canada (GAATW). Whores, Maids & Wives: Making Links. Proceedings of the North American Regional Consultative Forum on Trafficking in Women, April 29-May 3, 1997, Victoria, Canada.
- Haas, Ernst B. The Uniting of Europe: Political, Social and Economical Forces 1950-1957. London: Stevens & Sons, 1958.
- Beyond the Nation-State: Functionalism and International Organization. Stanford: Stanford University Press, 1964.
- Hansen, Lene and Michael C. Williams. 'The Myths of Europe: Legitimacy, Community and the 'Crisis' of the EU', Journal of Common Market Studies, 7:2, June 1999, 233-249.
- Harding, Jeremy. 'The Uninvited', London Review of Books, 22:3, 3 February 2000, 3-25.
- Heinämaa, Sara. 'What is a Woman? Butler and Beauvoir on the Foundations of the Sexual Difference', Hypatia, 12.1, 1997, 20-39.
- Haraway, Donna J. Modest_Witness@Second_Millennium: Female-Man_Meets_OncoMouse. New York: Routledge, 1997.
- Hauber, Laurie. 'The Trafficking of Women for Prostitution: A Growing Problem Within the European Union', Boston College International & Comparative Law Review, 21:1, 1998, 183-199.
- Hoffmann, Stanley. 'Obstinate or Obsolete? The Fate of the Nation-State and the Case of Western Europe', Daedalus, 95:2, Summer 1966, 862-915.
- 'Reflections on the Nation-State in Western Europe Today', Journal of Common Market Studies, 21, 1982, 21-37.
- Hoskyns, Catherine. Integrating Gender: Women, Law and Politics in the European Union. London: Verso, 1996.
- Kaiser, Sharon. 'Attitudes', in Frédérique Delacoste and Priscilla Alexander, eds., Sex Work: Writings by Women in the Sex Industry, 2nd edition. San Francisco: Cleis Press, 1998, 122.
- Kempadoo, Kamala. 'Globalizing Sex Workers' Rights', in Kamala Kempadoo and Jo Doezema, eds., Global Sex Workers: Rights, Resistance, and Redefinition. New York: Routledge, 1998, 1-28.

- Kohler-Koch, Beate. 'Catching Up with Change: the Transformation of Governance in the European Union', Journal of European Public Policy, 3:3, September 1996, 359-380.
- Leander, Anna and Stefano Guzzini. 'European Economic and Monetary Union and the Crisis of European Social Contracts', in Petri Minkkinen and Heikki Patomäki, eds., The Politics of Economic and Monetary Union. Helsinki: The Finnish Institute of International Affairs, 1997, 133-163.
- Lister, Ruth. Citizenship: Feminist Perspectives. London: MacMillan Press, 1997.
- MacKinnon, Catharine A. 'Sexuality', in Linda Nicholson, ed., The Second Wave: A Reader in Feminist Theory. New York: Routledge, 1997, 158-180.
- Maier, Charles S., ed. Changing Boundaries of the Political: Essays on the evolving balance between state and society, public and private in Europe. Cambridge: Cambridge University Press, 1987.
- Marks, Gary, Liesbet Hooghe and Kermit Blank. 'European Integration since the 1980s: State-centric Versus Multilevel Governance', Journal of Common Market Studies, 34.3, 1996, 343-378.
- Moravcsik, Andrew. 'Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community', International Organization, 45:1, Winter 1991, 19-56.
- 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach', Journal of Common Market Studies, 31:4, December 1993, 473-523.
- Müller, Ben. 'Imagining Europe: Community, Identity and Citizenship in the European Union', paper, University of Victoria, March 1999.
- O'Reilly, Dolores and Alec Stone Sweet. 'The National Liberalization and European Reregulation of Air Transport', in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 164-187.
- Pendleton, Eva. 'Love for Sale', in Jill Nagle, ed. Whores and Other Feminists. New York: Routledge, 1997, 73-82.
- Richardson, Jeremy. 'Eroding EU Policies: Implementation gaps, cheating and re-steering', in Jeremy Richardson, ed., European Union: Power and Policy-Making. London: Routledge, 1996, 278-294.

- Risse-Kappen, Thomas. 'Exploring the Nature of the Beast: International Relations Theory and Comparative Policy Analysis Meet in the European Union', Journal of Common Market Studies, 34:1, March 1996, 53-80.
- Sandholtz, Wayne. 'The Emergence of a Supranational Telecommunications Regime', in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 134-163.
- Sbragia, Alberta M. 'Institution-Building from Below and from Above: The European Union in Global Environmental Politics', in Wayne Sandholtz and Alec Stone Sweet, eds., European Integration and Supranational Governance. Oxford: Oxford University Press, 1998, 283-303.
- Spivak, Gayatri Chakravorty. 'Can the Subaltern Speak?', in Cary Nelson and Lawrence Grossberg, eds., Marxism and the Interpretation of Culture. Chicago: University of Chicago Press, 1988, 271-313.
- Tranholm-Mikkelsen, Jeppe. 'Neofunctionalism: Obstinate or Obsolete? A Reappraisal in the Light of the New Dynamism of the EC', Millennium, 20:1, 1991, 1-22.
- Verdun, Amy. "The role of the Delors Committee in the creation of EMU : an epistemic community?" San Domenico, Italy : European University Institute, Robert Schuman Centre, 1998. Series: EUI working papers. RSC ; no.98/44.
- Walker, R.B.J. 'Europe is not where it's supposed to be', mimeo, 1999.
- 'Gender and Critique in the Theory of International Relations', in V. Spike Peterson, ed., Gendered States: Feminist (Re)Visions of International Relations Theory. Boulder: Lynne Rienner Publishers, 1992, 179-202.
- Wijers, Marjan. 'Women, Labour, and Migration: The Position of Trafficked Women and Strategies of Support', in Kamala Kempadoo and Jo Doezema, eds., Global Sex Workers: Rights, Resistance, and Redefinition. New York: Routledge, 1998, 69-78.

Government Documents

- Committee of the Regions. *Opinion of the Committee of the Regions on the 'Communication from the Commission on violence against children, young persons and women...'* Official Journal of the European Communities C198/61, 14 July 1999.

- European Commission. *Communication from the European Commission to the Council and the European Parliament on Trafficking in Women of the Purpose of Sexual Exploitation*, 20 November 1996.
- European Commission. *Commission communication to the Council and the European Parliament proposing further action in the fight against trafficking in women*, 9 December 1998.
- European Commission. *The Opinion of the Economic and Social Committee on the 'Elaboration of an initiative aimed at establishing a regulatory framework for the employment of migrant agricultural workers from non-EU states'*, Official Journal of the European Communities, C204/19, 18 July 2000.
- European Council. *Council Decisions 1999/850/EC to 1999/859/EC on the principles, priorities, intermediate objectives and conditions contained in the accession partnerships with Hungary, Poland, Romania, Slovakia, Latvia, Estonia, Lithuania, Bulgaria, the Czech Republic and Slovenia respectively*, 6 December 1999.
- European Council. *Proposals for Council decisions on the principles, priorities, intermediate objectives and conditions contained in the accession partnerships with Cyprus and Malta*, 6 December 1999.
- European Council. *Joint Action 96/748/JHA of 16 December 1996 adopted by the Council on the basis of Article K.3 of the Treaty on European Union extending the mandate given to the Europol Drugs Unit*.
- European Council, *Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children*.
- Treaty on European Union, signed in Maastricht on 7 February 1992, <<http://europa.eu.int/abc/obj/treaties/en/entr2g.htm#17>>

Electronic Sources

- Gramegna, Marco A. 'EU Conference on Trafficking in Women for Sexual Exploitation', Vienna, 10-11 June, 1996, *International Organization for Migration*, cited 15 June 2000, <<http://www.iom.int/IOM/Statements/trafficking.html>>

- Marcovich, Malka and Meredith McGowan. 'Political Report on Action Against Traffic in Human Beings for the Purpose of Sexual Exploitation: The Role of NGOs', Conference Organized by the Steering Committee for Equality Between Women and Men, Council of Europe, June 29-30, 1998, *Movement for the Abolition of Prostitution and Pornography, Coalition Against the Traffic in Women*, cited 27 March 2000, <<http://www.uri.edu/artsci/wms/hughes/catw/ngocoe.htm>>
- Oddvar Eriksen, Erik and John Erik Fossum. 'The European Union and Post-national Integration', ARENA Working Papers, September 1999, cited 23 September 1999, <http://www.sv.uio.no/arena/publications/wp99_9.htm>
- Pope, Victoria and Margaret Loftus. 'Trafficking in Women', U.S. News & World Report, 122:13, 04 July 1997, cited 3 March 2000, *EBSCOhost*.
- Standberg, Nina. 'What is Trafficking in Women and Children and What Can Be Done?', Kvinnoforum, November 1999, cited 29 April 2000, <<http://www.qweb.kvinnoforum.se/papers/tic-whatistrafficking.html>>
- 'Thailand: New information on traffic in women', Women's International Network News, 23:1, Winter 1997, cited 10 March 2000, *EBSCOhost*.
- 'Trafficking in Women', Together in Europe: European Union Newsletter for Central Europe, 9, 15 June 1996, cited 10 October 1999, <<http://www.europa.eu.int/eu/comm/dg10/infcom/newspage/news-91.htm#12>>
- 'Trafficking in Sex: Women from Russia and Ukraine the Victims', The New York Times 11 January 1998, reprinted in Women's International Network News, 24:1, Winter 1998, cited 10 March 2000, *EBSCOhost*.

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Conference Presentations:

"(En)gendering European Integration Theory," for Conceptualising the New Europe: European Monetary Integration and Beyond. University of Victoria, Victoria, British Columbia, Canada, 15-16 October 1999.

"Trafficking the Union: (Dis)locating the Political in European Integration Theory," for Strategies of Critique 14: What is Political? York University, Toronto, Ontario, Canada, 24-25 March 2000.

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