“Caring” Global Policy? Sex Trafficking and Feminist International Ethics

by

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Abstract

Current approaches to sex trafficking appear to be neither very successful in stopping sex trafficking nor, more importantly, very effective in helping those women for whom it is intended. Rather, the overwhelming focus on the issue of prostitution obscures the more fundamental issue of providing relevant assistance to trafficked women. The theoretical debates among academics and feminist activists do not delve sufficiently deep enough into this issue, while the policy discussions and the resulting international policy reflect the moral positions of abolitionist activists and policy-makers regarding the unacceptability of prostitution as a legitimate income-generating activity—a debate that is distinct from the issue of sex trafficking.

I will argue that existing national anti-sex trafficking policies in India and Nepal (my two case studies), the regional policy for the South Asian Association for Regional Cooperation, and the United Nations Trafficking Protocol are ineffective because they reflect an association of sex trafficking with prostitution. A more effective policy would dissociate sex trafficking from moral judgments about prostitution. This can be accomplished by applying a feminist ethic of care as a methodology and as a political practice. Trafficked women emerge from a context of complex life histories and decision-making processes. Anti-sex trafficking
governance structures at the national and international levels are meant to provide care for trafficked women. As a methodology, an ethic of care would employ a critical moral ethnography to distill the experiences and articulated needs of trafficked women in order to show whether this is being accomplished and, if not, why. As a political practice, it can use the information that its methodology necessitates to provide guidance on how these governance structures might best be designed to provide care for trafficked women.
Acknowledgements

This dissertation marks the end of ten years of university life. As with the subjects of my project, I am also socially constituted, and there are many people who have helped along this journey. A moment of self-reflection quickly reveals that I have learnt far more about myself than about International Relations in the past decade, and for that I am very thankful.

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Introduction

Research Question: “Can the ethic of care form the basis of more effective anti-sex trafficking policy?”

Men, women and children are trafficked both within and across state boundaries for various reasons. However, the majority of those trafficked for sex are women. As a result, the context of patriarchal social systems, the relationship between sex trafficking and the sex trade, and the way in which female sexuality is intricately embedded in the issue all combine to result in an inordinate amount of attention being placed on the problem. Furthermore, the question of the extent of women’s control over their sexuality tends to inflame passions at all levels of analysis, and this has meant that the terms “trafficking” and “sex trafficking” are often, and incorrectly, used interchangeably. The terms “sex trafficking” and “prostitution” are also often understood either synonymously or in terms of a cause and effect relationship, adding an additional layer of complexity to the issue. All of this makes for a plethora of analyses and opinions on the most effective means of dealing with the issue of sex trafficking, and these are not always to the benefit of trafficked women.

This dissertation arose from an observation that current approaches to sex trafficking appear to be neither very successful in stopping sex trafficking nor, more importantly, very effective in helping those women for whom it is intended. Rather, the overwhelming focus on the issue of prostitution obscures the more fundamental issue of providing relevant assistance to trafficked women. In other words, are women getting assistance in a form that they actually want and that would be useful to them? The theoretical debates among academics and activists (mostly feminist with much overlap between the two) do not delve
sufficiently deep enough into this issue, while the policy discussions and the resulting international policy reflect the moral positions of abolitionist activists and policy-makers regarding the unacceptability of prostitution as a legitimate income-generating activity—a debate that is, it should be noted, distinct from the issue of sex trafficking.

In this dissertation, I will argue that existing national anti-sex trafficking policies in India¹ and Nepal² (my two case studies), the regional policy for the South Asian Association for Regional Co-operation (SAARC),³ and the United Nations Trafficking Protocol⁴ are ineffective because they reflect an association of sex trafficking with prostitution. This has resulted in a “one size fits all” approach that does not adequately help trafficked women and in some cases, perpetuates further harm. I will show how the language of human rights has been adapted by policymakers, academics and activists to fit the contours of the dominant moral judgment against prostitution and layered onto anti-sex trafficking discourse. Much of the sex trafficking literature and practice on the ground make reference to human rights as being the guiding principal in helping trafficked women. The invocation of the language of human rights in anti-sex trafficking discourse, used as such, is distinct from human rights theory. While it is widely agreed that sex trafficking is a violation of women’s human rights, the question of whether prostitution is a violation of women’s human rights is very heavily contested and deeply embedded in discussions of sex trafficking. These are separate issues, but in practice, both sex trafficking and prostitution are treated as being virtually the same human rights violation; furthermore, they are treated and employed as conceptual synonyms in anti-sex trafficking discourse—prostitution is widely viewed as a violation of women’s

¹ The Immoral Trafficking Prevention Act 1956.
³ Both India and Nepal are members of SAARC and are signatory to its Convention on the Prevention and Combating of Trafficking in Women and Children for Prostitution (hereafter SAARC Convention).
⁴ Hereafter “UNTP.”
human rights and one of the key causes of sex trafficking, and anti-sex trafficking policy is implemented accordingly. In this dissertation, I will argue that more effective policy would dissociate sex trafficking from prostitution. This can be accomplished by applying a feminist ethic of care in two senses— as a methodology and as a political practice. Trafficked women emerge from a context of complex life histories and decision-making processes. As I will show later in this Introduction, the language of the relevant pieces of law demonstrates how anti-sex trafficking governance structures at the national and international levels are meant to provide care for trafficked women. As a methodology, an ethic of care would employ a critical moral ethnography to distill the experiences and articulated needs of trafficked women in order to show whether this is being accomplished and, if not, why. Using a critical moral ethnography as a feminist method in International Relations requires two steps. First, as Robinson explains, “It would demand an awareness of, and exploration into the socio-political and cultural context in which moral contestation is taking place.” In this case, the moral contestation relates to the best way to stop sex trafficking and provide care for trafficked women. The second step is the transformative use of the ethic of care— as a political practice, it can use the information that its methodology necessitates to provide guidance on how these governance structures might best be designed to provide care for trafficked women.

Employing an ethic of care demands a different approach to the formulation of policy from that which is currently employed by the anti-sex trafficking community. Rather than solely relying on debates among elites at the international level, the requirement that needs

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5 Poverty and lack of education are the other two major reasons that are typically cited. I will explore the interrelationships between all three throughout the dissertation, and particularly in Chapter Three.


7 I will describe this method in more detail in the subsection entitled “Methodology” later in this chapter.
should be expressed by the subjects of governance policy means just that— the subjects themselves should be allowed to speak and must also be heard. Although this may seem simple, gathering moral knowledge in this way is infrequently done in International Relations theory and international relations practice. Doing so makes it clear that the use of the ethic of care is not inconsistent with a commitment to the protection of trafficked women’s human rights. However, as I will demonstrate later in the Introduction, a moral judgment against prostitution underlies the view of prostitution as a violation of all women’s human rights. In Chapter One, I shall explore in detail how the ethic of care can be employed to resolve the contestations regarding sex trafficking and prostitution vis-à-vis women’s human rights. In Chapters Two and Three, I will use the data from the critical moral ethnography to show how the conflation of this moral judgment with anti-sex trafficking policy enables further human rights violations and hinders the provision of appropriate care to trafficked women. The detail and the texture of the data are crucial to revealing the limitations of the pro- vs. anti-prostitution framework for understanding the issue of sex trafficking. It demonstrates how the lives of trafficked women cannot be captured by simplistic arguments about whether women have chosen to do sex work, or whether it is possible to make a genuine choice to do sex work.

The application of the ethic of care reveals that effective policy would best address the needs of trafficked women. Based on the results of the critical moral ethnography conducted in India and Nepal, one overarching need of trafficked women was identified—the need for a greater degree of autonomy. In the contexts of both the ontology of the ethic of care and the realities of female migration, this autonomy must be understood as relational. In other words, the exercise of autonomy is not an individual act; agents are socially embedded selves-in-relation to others (for example, parents and children). These constitutive
relationships affect individuals’ self-conceptions and their exercise of autonomy. A relational understanding of autonomy enables a more nuanced understanding of the decisions made by trafficked women, because those decisions are a reflection of the relationships of which they are a part, and which in turn affect their own self-conceptions and identities.8

More effective anti-sex trafficking policy at all levels would be designed with reference to the fostering of higher levels of autonomy for trafficked women. This will have two important effects. First, it will help to reduce sex trafficking as autonomous women are much less likely to be trafficked. Second, it will help to avoid the curtailment of the exercise of autonomy and the human rights violations that often accompany many existing anti-sex trafficking interventions. Such violations include the right to liberty, the right to freedom of movement and the right to choose one’s occupation. Current interventions have neither reduced the dangers of being trafficked for sex nor prioritized the protection of these human rights.9 The absence of opportunities which enhance trafficked women’s competencies and capacities to exercise their autonomy, and the violations of their autonomy, demonstrate how the policies do not adequately or appropriately care for trafficked women. As I will describe in Chapter Three, structures which help to foster trafficked women’s autonomy, such as communities of judgment and migrant resource centers, also offer more effective human rights protections.

An understanding of autonomy as both relational and crucial to all trafficked women can form a bridge between the values and goals of the ethic of care on the one hand, and the myriad of life contexts of trafficked women and the problem of sex trafficking on the other. While global governance policies, and indeed national level policies, are by necessity vague

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8 I will give a more detailed definition and explanation of the concept of relational autonomy in Chapter One, where I situate it within the framework of the ethic of care.

9 This claim will be substantiated with the data from the critical moral ethnography in Chapter Two.
and overarching, the application of the ethic of care will demonstrate how contextuality can be analyzed and employed to reach a solution that does not silence the voices of the subjects of those same policies. Enabling autonomy is, in a sense, an overarching policy goal. However, it is a goal that can help to achieve the objectives of helping to reduce sex trafficking and providing care for trafficked women. While the goal of enabling autonomy is very widely applicable, trafficked women’s exercise of their autonomy is contextual.

This dissertation was written for an audience of policy-makers, feminist academics and activists who are heavily involved in the relevant debates, and care ethicists. In asking whether an ethic of care can form the basis of more effective anti-sex trafficking policy, I have made an implicit assumption that the first two groups of this audience would agree, or be open to the possibility, that the existing policies are somehow ineffective. However, I must acknowledge that there will be at least some people who believe that the policies are working exactly as they should. That is, anti-sex trafficking policies should be based on an ideological opposition to prostitution, and controlling female sexuality may be an inevitable (and perhaps unfortunate) side effect. Related to this is the fact that most national and international governance policies are hardly ever designed in consultation with the subjects of those policies. Although this may all be true, there is a very strong emphasis and claim on the part of policy-makers and feminist academics and activists to be working towards the protection of women’s human rights. Given at least some level of concern for the protection of such rights, I am proceeding based on an assumption that this concern might cause these persons to be equally concerned with the possibility that existing policies may be doing more harm than good. The deep involvement of feminists in this thorny debate makes this policy result even more important. I rest the strength of my claim on the evidence yielded by the ethic of care’s methodology. Overall, this project does not rest on a belief that the relevant
The audience will engage in a wholesale adoption of an ethic of care, attempt to dismantle patriarchy in all of its various forms, or correct all forms of gender discrimination. Rather, it is my hope that it will shed some light on issues that are of great concern to the lives of all trafficked women and help to frame a thoughtful re-consideration of the best way to deal with the problem of sex trafficking. To this end, enabling the autonomy of trafficked women is an achievable policy goal in an imperfect world— it is an ethical solution to a difficult problem that provides avenues for caring for trafficked women whilst being rooted in the contextual reality of their lives.

The third relevant group in my audience is comprised of care ethicists. The body of work on care theory is growing. However, there is as yet comparatively little work done in the application of the ethic of care, particularly analyses which include the gathering of empirical data through fieldwork in order to conduct a critical moral ethnography. This project is intended to be a concrete application of the methodology of the ethic of care. I use empirical data to justify my claims and make normative policy recommendations. In so doing, I hope to demonstrate two things. First, the ethic of care is not simply an esoteric and marginal sub-branch of either Philosophy or International Ethics (these overlap significantly). Second, the ethic of care can generate practical solutions to intractable “real world” issues. This is exemplified in the fact that Chapter Three of this dissertation on how policy might be shaped in response to the evidence of the critical moral ethnography was written based on evidence of concrete lives, as opposed to being an abstract or idealistic treatise.

In the rest of this Introduction, I will describe the policy negotiations that led to the creation of the UNTTP, the debate among feminists regarding prostitution and how it became

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linked to the issue of sex trafficking, and the disjuncture between the existing policy framework and the interests of trafficked women. I will conclude with an overview of the methodology employed in the conduct of the critical moral ethnography in India and Nepal.

In Chapter One, I will outline the theoretical framework of the ethic of care and its practical implications with regard to the issue of sex trafficking. I will also explain my understanding of how the ethic of care might be applied so that it does not present a challenge to the protection of women’s human rights. Rather, I will argue that it can be understood as a way to resolve the contestations surrounding the conceptualization of women’s human rights with regard to both prostitution and sex trafficking. Thus, in terms of the practical business of designing anti-sex trafficking policy, the ethic of care can be used in conjunction with the language of human rights in order to justify a change in focus to trafficked women’s autonomy.

The application of the ethic of care will be laid out in much greater detail in Chapter Two (Critical Moral Ethnography) and Chapter Three (Transformational Policy). In Chapter Two, I will use the alternative epistemology that is the basis for the normative recommendations of the ethic of care to demonstrate how existing anti-trafficking policies harm rather than help many trafficked women. The alternative epistemology of the ethic of care is defined by knowledge that comes from the subjects of moral consideration. It is “alternative” because it is based on the premise that moral analysis cannot be based on assumptions about subjects’ feelings, needs and lives. I will define my use of the term “need” and use the evidence of the critical moral ethnography to justify the answer to my research question— the ethic of care can help in the design of more effective anti-sex

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11 I will explain this in detail in Chapter One, in the context of how the language of human rights is currently employed to justify existing anti-sex trafficking policies and how these policies often result in human rights violations.
trafficking policy. The aim is not for governments to meet every need of every trafficked woman. Rather, a common thread can be discerned from trafficked women’s narratives, based on the need for autonomy. In this context, autonomy must be understood in a relational sense. Anti-sex trafficking policy which fosters the autonomy of trafficked women, I will argue, is much more achievable (at least in the short term) than broad goals such as “ending poverty” and/or “ending gender discrimination”—the standard recommendations for stopping sex trafficking. More importantly, it would allow women to exercise far more control over their lives by enabling and increasing their capacities to make decisions that are in keeping with their own interests, values and identities. While autonomy is a broad, overarching and widely-held value in the international system, as I mentioned above, it is a value that is exercised in context. Contextuality need not be a hindrance to the design of broader policy, and autonomous women are much less likely to be trafficked.

In Chapter Three, I will explore in detail how my normative recommendation might be practically applied to anti-sex trafficking policies at the local and international levels. Based on the results of the critical moral ethnography in Chapter Two, I will argue that the application of a relational understanding of autonomy to my data demonstrates how trafficked women are both individually and socially constituted, and how anti-sex trafficking policy forms a part of that social constitution. In its existing form, the underlying moral judgment against prostitution structures an oppressive and paternalistic relationship between trafficked women and the international community. This is manifested in practices such as border patrol, police raids, rescues and prescriptive rehabilitative programmes which mask a forced, socially determined reconstitution of trafficked women. The latter, in turn, affects trafficked women’s self-conceptions and act as hindrances to their exercise of autonomy. I
will analyze communities of judgment, migrant resource centers and local awareness programs as options whereby the knowledge of the alternative epistemology can be put into practice and allow for the process of autonomous reconstitution. I will use the example of Durbar Mahila Samanwaya Committee, the sex workers’ collective in Kolkata, as an example of an existing community of judgment that provides a space for trafficked women, engages in the provision of care and works towards the prevention of sex trafficking. I will conclude the chapter by demonstrating how the goals of these measures might be linked to the UNTP at the international level, so that international policy can reinforce national policy, with a common aim of enhancing trafficked women’s competencies and capacities to exercise their autonomy and increasing their ability to make autonomous choices for their lives.

A. The Policy Framework

The institutions and practices of global governance shape the opportunities, resources and everyday experiences of men and women in very different ways, and this is no less true of national and international anti-sex trafficking policy. Rosenau provides what is perhaps the most general definition of governance as “mechanisms for steering social systems towards their goals.” These mechanisms are wielded by various “units of governance,” including non-governmental organizations (NGOs), social movements, issue and policy

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12 The concept of “communities of judgment” was developed by Jennifer Nedelsky, and refers to a space in which a community of judging subjects who share a common sense are able to arrive at judgments which take the standpoint of its relevant subjects into account. In so doing, the judgment is valid for the community in question because it emerges from this shared community. I will define and explain this concept in much more detail in Chapter Three.
networks, global civil society, and epistemic communities.\textsuperscript{13} However, feminists have argued that the unspoken foundation of International Relations is a patriarchal social reality.\textsuperscript{14} A cursory glance at the global governance literature reveals at best an implicit assumption that global governance mechanisms are gender-neutral and work equally well (or badly) for men and women, and at worst a complete absence of any gendered considerations—neither the \textit{governance of gender} (“how states and social policies mete out rewards and punishments for the production and regulation of masculinity and femininity through their structures, processes and discourses”) nor the \textit{gender of governance} is considered (“how notions of femininity, masculinity, gendered subordination and domination organize state institutions and policies” respectively).\textsuperscript{15}

The problem of sex trafficking raises special challenges for policymakers—it is both an intra-state and cross-border issue, and domestic and international policy must aim to accomplish the same goals for any measure of success. Furthermore, the issue of female migration in and of itself normally ignites controversy. This only increases when the issue of sex is added to the mix. On the domestic side, anti-sex trafficking policy ranges from non-existent to the enforcement of controls on women’s migration, and at its worst, an assumed equivalency with anti-prostitution policy. This is the case with the 2000 US Trafficking Victims Protection Act,\textsuperscript{16} which itself has global implications in terms of its connection with the US State Department’s ranking of states’ anti-trafficking efforts\textsuperscript{17} and the linking of aid


\textsuperscript{16} Hereafter “TVPA.”

\textsuperscript{17} Available in the US State Department’s “Trafficking in Persons Report” which is released annually. [http://www.state.gov/g/tip/rls/tiprpt/](http://www.state.gov/g/tip/rls/tiprpt/) (accessed October 2008).
with prohibitionist prostitution laws. With regard to the case studies of this project, the critique applies equally to the Immoral Trafficking Prevention Act (1956) in India and the Human Trafficking and Transport Control Act (2008) in Nepal. On the international side, the UNTP has not fulfilled its original objective of centralizing efforts across borders to end even the worst human rights violations. The result has been that in many cases, trafficked women who deviate from particular conceptualizations of “the female” (innocent, victimized, and morally upright) are given inappropriate assistance.

(i) Feminist Scholarship and Activism

Feminists largely agree that the forced trafficking of women is undesirable, but there is much disagreement on what counts as sex trafficking, how to label the women who are caught up in the sex trade, and even who is worthy of assistance. The dichotomies that characterize understandings of sex trafficking reflect the differing normative positions of activist groups. In addition, many academics researching sex trafficking are also activists, and this is reflected in the normative positions occupied by these researchers with regard to proposed solutions to the problem. This in turn has divided academic analysis of the appropriateness and effectiveness of policy solutions. The opposing feminist positions which were starkly highlighted in the negotiations leading up to the UNTP can be usefully captured via the concept of “governance feminism.” This refers to the positioning of feminist ideas in actual legal institutional power, with the normative goal of addressing problems and seeking

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19 Hereafter “ITPA.”
20 Hereafter “Nepal Control Act.”
reforms in the real world. Halley refers to this type of intervention as the “infiltration of specifically feminist activism into generalist forms of power-wielding. The result is the transposition of feminist ideas into specifically non-feminist forms of power.” This is accomplished by “piggybacking” on existing forms of power, “intervening in them and participating in them in many…highly mobile ways.” With regard to the UNTP and the literature on sex trafficking in general, governance feminist groups occupy two positions—the radical feminist or abolitionist approach and the “pro sex work” approach. The abolitionist approach had a profound impact on the resulting Protocol, and continues to coincide with non-feminist state policies regarding sex trafficking and prostitution. On the other hand, the sex workers’ advocates argue that the human rights of many women, including sex workers, continue to be ignored.

Both abolitionist and pro-sex worker feminists claim to speak in the interests of women’s human rights. Indeed, even states which legislate against prostitution and conflate it with sex trafficking make the same claim. However, the feminist commitments of the ethic of care also include a questioning of any values which are deemed to be ethically necessary and self-evident, particularly when these seemingly uphold gendered structures, practices and relationships. In the case of sex trafficking, governance structures which claim to be protecting women’s human rights often also exclude, or attempt to make decisions on behalf of, women based on the supposed immorality of prostitution. An analysis from a care perspective would begin by revealing the socially constructed nature of

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22 Ibid., 340-346.
23 Here the “moral crusade” which Weitzer describes comes to mind. Weitzer traces the alignment of abolitionist feminists with conservative anti-prostitution groups in the U.S. Weitzer, *The Social Construction of Sex Trafficking*.
these ethical claims, as well as their gendered basis in local and international structures (whether social, cultural, etc.). I will engage in this analysis below.

Abolitionist feminists equate sex trafficking with prostitution, and view both as violations of women’s human rights and symptomatic of the “female class condition” of subordination under patriarchy.\(^{25}\) For these feminists, prostitution is “sexual power in its most severe, global, institutionalized and crystallized form.”\(^{26}\) Sexual domination is merely one element of the liberal political order which oppresses women and “is so pervasive that it actually invokes consent, collusion or some form of cooperation from the oppressed.”\(^{27}\) Thus, “men create the demand; women are the supply.”\(^{28}\) This view is representative of the position taken by the Coalition Against Trafficking in Women (CATW)—the most influential abolitionist feminist group at the UNTP negotiations—and is synonymous with the works of Kathleen Barry.\(^{29}\) The suggested remedy of abolitionist feminists (including Barry) is the criminalization of all prostitution, with any movement of prostitutes defined as “trafficking,” premised on the idea that sexuality is used on a global scale to dominate women. It follows that choice and/or consent are irrelevant under conditions of domination, and this is no less true of prostitution. Women, in this understanding, can only be “victims” and for abolitionist feminists, the existence of a prostitute who is unharmed by her experience is an “ontological impossibility.”\(^{30}\)


\(^{26}\) Barry *The Prostitution of Sexuality*, 9-10.

\(^{27}\) Ibid., 23-24.

\(^{28}\) Miriam *Stopping the Trafficking in Women*, 2.

\(^{29}\) Kathleen Barry was the first director of the CATW.

The pro-sex work approach arose both out of an attack against the abolitionist feminist approach by movements advocating for sex workers’ rights as well as from within the international feminist movement itself.\textsuperscript{31} This position holds that sex workers should be afforded the rights extended to all workers under international labour law, and that failure to do so would enable human rights abuses in the sex industry to continue unabated. Sex worker activists view consensual prostitution as legitimate and distinct from sex trafficking. They consider the extension of recognition and rights to be crucial for protecting all workers in the sex industry, including those who may have been trafficked for sex, but thereafter chose to remain in the sex trade.\textsuperscript{32} The works of Jo Doezema and Kamala Kempadoo most prominently cross the academic-activist divide in advancing specific arguments against an approach to sex trafficking which denies the possibility of sex work as an income-generating activity. Kempadoo argues that the focus on crime, punishment and immigration control means that issues of human rights and social justice are ignored.\textsuperscript{33} At the same time, the continued portrayal of, and emphasis on, “the victim” denies women (whether prostitutes or otherwise) any notion of agency or subjectivity. Doezema takes this further in an internal critique of the international feminist movement— in Western feminists’ “attachment” to helpless Third World prostitutes,\textsuperscript{34} and in how these feminists are implicated in the creation of certain dominant discourses or ideological narratives which uphold certain understandings of “sex trafficking” and “prostitution.”\textsuperscript{35} In general, women trafficked for sex are treated either as innocent and vulnerable “madonnas” in need of assistance, or as tainted “whores” in

\textsuperscript{32} Doezema \textit{Now You See Her, Now You Don’t}, 2005.
\textsuperscript{34} Jo Doezema, “Ouch! Western Feminists’ ‘Wounded Attachment’ to the Third World Prostitute,” \textit{Feminist Review} 67 (Spring 2001), 16-38.
\textsuperscript{35} Doezema \textit{Now You See Her, Now You Don’t}, 2005.
need of “redemption and rehabilitation.” For pro-sex work feminists, these portrayals have a strong influence on what are understood to be the normative possibilities for anti-trafficking measures, as well as the appropriate ways in which to approach trafficked women.

(ii) The Policy Problem

“Law cannot stop everything. We need the morals.”

The type of policy change that was brought about as a result of this debate is readily identifiable in the UNTP. The definition of trafficking that was adopted reflected the coincidence of abolitionist feminists’ moral interests and states’ power and moral interests. In this instance, governance feminism with regard to the issue of sex trafficking took a very particular course. As with many pieces of international law which embody specifically normative objectives, the use of certain terms is often strategic and reflects the moral authority the user hopes to gain from its use. This was the case with regard to the first definition of the term “trafficking” in international law. Article 3 of the UNTP defines “trafficking in persons” as:

the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of

37 WB 4, Immoral Traffic Unit, Kolkata Police. Interview with author, West Bengal, September 2009. As I will explain in the section on Methodology, I have coded the elite interviewees (NGO, UN personnel, government and law enforcement) according to location. WB= West Bengal.
power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.  

“The purpose of exploitation” was taken to mean “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs” and the Protocol goes on to say that the consent of a victim of trafficking “shall be irrelevant.” This definition is vague, as is the assumed relationship between prostitution and trafficking. It focuses exclusively on the “victim”—women who were otherwise virtuous but somehow ended up coerced into the sex trade. In this sense, the Protocol upholds two prominent myths about sex trafficking identified by Sanghera—“most trafficking happens for the purpose of prostitution” and “all entry of women into the sex industry is forced and the notion of ‘consent’ in prostitution is based upon…falsehood.” The phrases “sexual exploitation” and “the exploitation of the prostitution of others” were deliberately left undefined in order to maintain widespread state support for the Protocol and, in so doing, avoids the issue of whether prostitution can be a legitimate means of employment or is always a form of

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41 That this “myth” guides sex trafficking policy is evident in the stance of the current U.S. administration: “The U.S. Government adopted a strong position against legalized prostitution in a December 2002 National Security Presidential Directive based on evidence that prostitution is inherently harmful and dehumanizing, and fuels trafficking in persons, a form of modern-day slavery” (U.S. Department of State 2004).
violence against women. As Sanghera argues, the UNTP fails to make the important distinction between trafficking and prostitution.

At both the national and international levels, there is a dominant moral standpoint that prostitution is always wrong. Its causal linkage with sex trafficking does not enable women to make informed choices in the context of their freedom to migrate. Rather, the convergence of abolitionist and states’ moral and national interests in opposing prostitution supports an artificial division between the “guilty/voluntary sex worker” and the “innocent/forced victim.” Underpinning this division are assumed normative and causal relationships between prostitution and sex trafficking— that is, prostitution is morally wrong and prostitution causes sex trafficking, respectively. I will deal with each of these relationships in turn.

In both India and Nepal, female chastity is accorded a great deal of importance and prostitution is regarded as being highly immoral. In Nepal, the Director of a prominent anti-prostitution NGO that conducts rescues at the Indo-Nepali border explained, “Prostitution is strongly prohibited by law because in our country, like in India, morality and chastity are very important. Prostitution is strongly banned.” Similarly, the Director of another anti-prostitution NGO in India explained how they worked according to the principle that “Prostitution is illegal and unhealthy for women.” These views hold true to a large extent at the national level in both countries as well. For example, according to an official from the National Human Rights Commission of Nepal, “Traditionally, socially and

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44 Sanghera, *Unpacking the Trafficking Discourse*, 10.
45 I am grateful to Prof. Nancy Bertoldi for helping me to clarify this point.
46 KTM 2; KTM 3; KTM 11. Interviews by author, Kathmandu, 2010. KTM = Kathmandu.
48 WB 2. Interview with author, West Bengal, October 2009.
culturally, the sex trade is seen as very bad. It is not socially acceptable. In the view of the National Human Rights Commission, prostitution is seen as a violation of human rights. 49

The views expressed by the NGO personnel in particular are striking examples of how the lines between prostitution and anti-sex trafficking policy can become blurred and normalized, based on an assumption of causality. Prostitution is neither legal nor illegal in either Nepal or India, although the anti-trafficking laws have a noticeable anti-prostitution stance. However, in practice, prostitution is treated as being illegal and is assumed to cause sex trafficking. Thus, one legal expert who had spent a great deal of time researching sex trafficking in South Asia explained that “Moral judgments do have an effect. When you say ‘trafficking’ in Nepal, everyone thinks about prostitution. It is a synonym. And the people drafting the law also had this misperception. Most parts of the Act deal with prostitution.” 50

As prostitution policy and anti-sex trafficking policy coincide on this basis, the majority of those rescued in the police raids 51 which purportedly take place to curb sex trafficking are women. In India, this is widely acknowledged to be the case by both law enforcement personnel 52 and NGOs on both sides of the prostitution/sex trafficking debate. 53 In Nepal, a Deputy Superintendent of the Kathmandu Police Force confirmed that “The law does reflect the stigma against prostitution....Prostitution is neither legalized nor criminalized in the Trafficking Act. And the women are not decriminalized. The police sometimes act as if prostitution is illegal. But it is not considered illegal....The women are arrested in the raids if…

49 KTM 3. Interview with author, Kathmandu, August 2010.
50 KTM 11. Interview with author, Kathmandu School of Law, Kathmandu, August 2010. The “Act” refers to the Nepal Control Act.
51 I distinguish here between “raids” in which the police arrest sex workers found in brothels and “rescues” in which NGO personnel go to brothels accompanied by police officials in order to rescue trafficked women. As I will explore in greater detail in the subsequent chapters, sometimes women who were not trafficked and/or women who were trafficked but did not want to leave the sex trade are also rescued. Both practices take place in both India and Nepal, although the occurrence of “rescues” in Nepal appears to be much less frequent. In Kathmandu in particular, the police mostly conduct raids.
52 Nair 2004; ND 1. Interview with author, New Delhi, August 2009. ND=New Delhi.
53 WB 2. Interview with author, West Bengal, October 2009; WB 13, interview with author, West Bengal, November 2009.
they are found with a customer.” Thus, as another legal analyst explained, “Since girls are arrested and charged anyway, it is as if prostitution is criminalized, even though on paper it is not.” In Kathmandu, raids occur on average once or twice a week, but often with increased frequency when there is a change in official police personnel, a change in government officials who wish to signal to the public that they are cracking down on prostitution, when police officials wish to collect more money from brothel owners as bribes, and during festival periods. For all these reasons, anti-prostitution activists argue that sex workers should be decriminalized. Pro-sex work activists agree, although they part company on the question of clients— for abolitionists, clients should be criminalized while for pro-sex work activists, the sex trade in its entirety should be decriminalized (adult sex workers and clients).

Simply assuming that all prostitution is equivalent to sex trafficking and male domination seems a tenuous basis on which to justify policy that violates the rights of many trafficked women and sex workers (these two groups overlap). It is made even more tenuous by the fact that there is evidence which refutes this assumed causality. To date, there is still no international agreement which condemns the abuse of the human rights of sex workers who remain as “outsiders” in an understanding of sex trafficking that encompasses all prostitution. As this dissertation shall demonstrate, prostitution and the circumstances by means of which women enter the sex industry are hardly monolithic. For example, some are

54 KTM 5. Interview with author, Kathmandu, June 2010.
56 KTM 14. Correspondence with author, 9th February 2012. There is also evidence in secondary literature that the police collect bribes to allow dance bars to open for longer hours, and raids might be conducted on dance bars and massage parlours in the event of a grudge or if more money is desired. Youth Partnership Project for Child Survivors of Commercial Sexual Exploitation in South Asia (Nepal), Youth-led Study on the Vulnerability of Young Girls Working in Restaurants, Bars, and Massage Parlours in Kathmandu (Kathmandu: Maiti Nepal, 2010), 22. I will explain the concept of dance bars, restaurants and massage parlours in the context of the sex trade in Kathmandu in detail in Chapter Two.
58 Doezema Now You See Her, Now You Don’t, 74.
tricked, some are forcibly imprisoned, some return after their initial period of bondage, and some are told about sex work along the way and decide to continue. The existence of women who were trafficked and have no desire to return to the sex trade, women who were trafficked and independently decided to return, and women who knew what they were going to do from the outset was confirmed in my data from both the pro- and anti-sex work ends of the key informant spectrum. More importantly, it was also confirmed by the narratives of trafficked women themselves. I will describe the experiences of Charu in Nepal and Shashi in India to illustrate this.

Charu left her home in Eastern Nepal and went to Kuwait via India, under the impression that the agent who accompanied her had arranged a job as a housemaid. She had made the decision to go because her husband took a second wife, and she was very poor with two children. However, upon arrival in Kuwait, she was forced to do excessive amounts of housework, and she was also forced to have sex with the male relatives and houseguests of her employer. Her employer also physically abused her. Charu described, “I am illiterate. I could not even read signs and I did not even know where I was working...There was no rest, no food, and guests kept on coming. There was physical and sexual abuse. Why do this? Why be alive?” On experiencing these emotions, Charu took wire from underneath the refrigerator and attempted to commit suicide. She was only prevented from doing so by another Sri Lankan maid in the house. She cried all the time and always argued with her boss to return to her home. She was only allowed to leave after five years.

59 WB 13 (interview with author, Kolkata, 2009) and KTM 2 (interview with author, Kathmandu, 2010).
60 As I will explain in the section on Methodology, these names have been changed.
While Charu had no desire to return to Kuwait, Shashi recounted experiences that were similar in some ways but quite different in others. Shashi is from Bangladesh and has never attended school. She described how she sometimes went for days without food and when she asked her mother for food, she was often beaten. At the age of eleven, she was tricked by a woman she barely knew and made to believe that this woman would help her get a job in Kolkata. However, she was sold to a brothel in Uttar Pradesh state in India. She stayed there for two years until she reached puberty, at which point the brothel owner forced her to begin sex work. During this time, she also had a regular customer who became her boyfriend. She was often beaten by the brothel owner.

At the age of thirteen, Shashi was rescued in a police raid and taken to a government shelter home. Her boyfriend bribed the officials in the shelter home so that he would be allowed to visit her. After six months, she ran away from the shelter home with him because she was in love with him. After living together for one year, she decided to visit her home and a friend of her boyfriend accompanied her. This man kept her for several days in Kolkata and raped her before eventually taking her to her home village in Bangladesh. She faced a great deal of social discrimination there because she had been away for so long. The villagers began spreading rumours that she had become a prostitute in India, to the extent that her mother began to worry that Shashi’s presence would affect the marriage prospects of her sisters. Shashi asked her mother to arrange a marriage for her in order to end this problem. However, two hours before the marriage ceremony, the groom cancelled the wedding because some villagers had told him that he should not marry a prostitute. The social pressure caused her family to turn against her, and she drank poison in an attempt to commit

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62 Interestingly, Shashi explained that the brothel had a trap-door which led to an underground room. This room was used for hiding during police raids. She was taken during the raid because she did not make it to the trap-door in time.
suicide. She woke up in a hospital and left without telling anyone in her family. She made her way to the train station, and she stayed for two days with a tea seller there. She had sex with this man in exchange for guidance on how to return to India. Shashi eventually arrived at a train station north-west of Kolkata in West Bengal, but while sleeping on the platform she was gang-raped by a group of seven men. After this happened, she felt that she wanted to die. She sat on the train tracks and waited for a train to come, whilst thinking that she would die alone in India and that her family would never know. A sex worker came along and asked her why she was sitting there on the train tracks by herself. Shashi hugged this woman, and the woman took Shashi to her own home in Kolkata. She entered the sex trade and at her first brothel, she was badly treated by the brothel owner. This owner did not pay her for one year, and she was beaten when she asked for money. She eventually moved to another brothel where she was not under the control of a brothel owner. Shashi explained how she suffered greatly during those years, but afterwards she gradually felt stronger and smarter. Once she began earning her own salary and sending money to support her family, she felt as though her courage had increased. She has since paid for the weddings of three sisters and has brought her mother and brother to live in Kolkata. She has also paid for her brother’s education. She described her conviction that without her suffering, she would have become neither stronger nor successful.

Both Charu and Shashi experienced very high levels of trauma, to the point of feeling suicidal. They both experienced multiple human rights violations that are characteristic of the process of sex trafficking—violations of the right to liberty and security of person, the right to not be held in slavery or servitude, the right to not be subject to torture or inhuman

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63 North-west of Kolkata.
64 Shashi. Interview with author, West Bengal, September 2009.
treatment/punishment, and the right to freedom of movement. Yet, when speaking of their lives, they did not describe themselves in language which suggested a state of victimhood. Indeed, Charu said that her principal need was “To stand on her own two feet” in order to be able to take care of herself, her daughter and her mother. Shashi asserted that her main aim was to look after her fourteen-year-old daughter’s future. Her daughter wants to be a doctor, and Shashi told me that she “could guarantee” that she would make this happen with her earnings from sex work. This is only a sample but it demonstrates the importance of contextual knowledge in considering the design of policy, as I will explain below.

The “one size fits all” approach is meant to protect the body of “the victim,” and the overall stance is one of crime, immigration control and rehabilitating trafficked women. In this sense, the convergence of moral and national interests is clearly evident. While governance feminist methods have tended toward a preference for outcomes which criminalize men’s conduct in order to protect potential female victims, the overall stance of states has been to make female migration and prostitution the policy problem. Most governance theorists do not pause to consider the numerous gendered normative implications of global governance structures for women and men, particularly those structures which embody very specific moral positions. Yet, instruments such as the TVPA, the UNTP, the ITPA and the Nepal Control Act are both influenced and underpinned by understandings of masculinity, femininity and appropriate moral conduct in relation to gender, as my discussion of the immorality of prostitution and its linkage with sex trafficking demonstrates. There are ethical aspects to the problems which require international attention and co-operation such as sex trafficking, as well as ethical issues associated with what are considered to be the

65 Charu. Interview with author, Dharan, July 2010.
66 Shashi. Interview with author, West Bengal, September 2009.
67 Halley et al From the International to the Local, 419.
appropriate solutions. Both domestic and international sex trafficking policies are “poorly done and poorly understood” precisely because the actual contexts in which women migrate and may become trafficked are ignored or buried in dichotomies as mythical symbols of sexual victimhood—that is, the coerced female body. It illustrates why global governance policy cannot be treated as automatically value-free or gender neutral.

In practice, the implications for all women involved in the sex trade (whatever their initial circumstances, and whether trafficked or not) of the artificially constructed voluntary/forced dichotomy are grim. From both a philosophical and practical perspective, it has a severe and negative impact on the possibilities for their exercise of autonomy. Furthermore, sex trafficking is very closely linked to the process of migration. The moral judgment against prostitution has resulted in a tendency to make an assumption of victimhood and associate it with migration. Women who may not fit the parameters of this descriptor are often regarded as being unable to make decisions that are in their own best interests for reasons of ignorance or because they are easily swayed. For example, one very prominent anti-prostitution NGO working in Kathmandu sends counsellors to the police station to take women brought in from raids to the NGO’s shelter home. The key informant from this NGO explained that “Some of them [the rescued women] want to leave that profession and start another...but some of them are still in the same way...because maybe their age, they are not able to decide what they are doing. Gangsters are forcing them...so they are threatened. Another is the fancy life that they have there. That is also another factor. They need some time to really become convinced why they should leave that profession. So

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it is not that easy but we have to continue working.”\textsuperscript{69} The “fancy life” refers to the lure of consumerism that is assumed to make many women and girls easier prey for traffickers, and also causes them to make the shift from “victim” status to voluntary sex worker. An Inspector of the Immoral Traffic Unit in the Kolkata Police described how she has seen this many times. She thought that sex trafficking was caused equally by a combination of poverty and the allure of access to consumer goods. She described how, in her experience, many women are trafficked, but then their lives change.

“Once they have come after a few months they develop a habit. Not in all the cases but in some. Suppose I rescue a Nepali girl who has been trafficked here [to Kolkata]. That particular girl says ‘I was not willing when I came at first. I was brought here with the proposition that they would give me some good work, I can earn...my parents are very poor. I stay in Kathmandu or the snowy hills.\textsuperscript{70} I have got no job over there. So when I came here I was not willing.’ But after staying for three months, she gets into the habit of using shampoo sachets thrice in a week or she eats fast-food and she does not have to walk on the rugged mountain terrain. She has got a plastic chappal\textsuperscript{71} in some colour. And she is seduced to that extreme that she says ‘I am giving my consent here and I am very happy here.’ It is a big seduction that goes on within this three months. And the prime thing—her inhibition, her shame—that has been broken. So she no more feels ashamed of it. She thinks it is a good profession. She makes many friends of her own age here who are very inclined to do this job. So within three months she is starting to love this profession, she is starting to settle herself. This also I have seen when I have talked with them.”\textsuperscript{72}

\textsuperscript{69} KTM 1 (italics added). Interview with author, Kathmandu, August 2010.
\textsuperscript{70} “Snowy hills” refers to the area designated as the “hilly region” in Nepal, i.e., the part of the country that is occupied by the Himalayan Range, as opposed to the comparatively much smaller flat Terai that straddles the border with India.
\textsuperscript{71} Slippers.
\textsuperscript{72} WB 4. Interview with author, West Bengal, September 2009.
These examples illustrate the complexity of the issue of sex trafficking. There may be
sex workers who migrate voluntarily from home to destination, women who are tricked
and/or forced all the way, and women who are forced but then become voluntary at some
point for various reasons.\footnote{The critical moral ethnography will use the narratives of trafficked women in detail to demonstrate how varied these reasons can be.} The collective response in terms of anti-sex trafficking policy is
a model of “rescue and rehabilitation” to which rescued women are subjected. It is viewed as
necessary for returning them to the “mainstream” of society.\footnote{This is the exact phrase that is used in anti-sex trafficking discourse.} Rescues of trafficked women
from brothels are conducted by NGO personnel with the aid of police. This normally
involves a stay of at least one year or longer in a shelter home, and while a woman’s Court
case is in progress she learns a trade such as tailoring or fabric printing with a view to
earning a livelihood when she returns home. Women who go home and subsequently return
to the sex trade are designated as having been “re-trafficked,” regardless of whether this has
happened by means of being tricked and/or forced again by a trafficker or because the
woman in question made her own decision to do so. It is not my argument that women who
truly desire to stay in a shelter home and learn a skill so that they can exit the sex trade
should be prevented from doing so. However, the assumption that this must be applicable to
all women, and that those who might desire otherwise simply need to be convinced, is
paternalistic and a hindrance to their exercise of autonomy. In particular, the three reasons
for “re-trafficking” were identified by one activist as follows: “lure of money, lack of
counselling, and lack of motivation. They tell me that by sleeping with a man, I am getting
2000 rupees. And you are telling me to work in a place where after a hard day’s work, after
working for 8 hours, I will be getting only 2000 rupees a month! Why should I go there?”
As both a cause and a result of instances such as this, “the moral values are going down.”\textsuperscript{75} The three reasons for “re-trafficking” notably do not suggest a sense of having been tricked and/or forced \emph{a second time}.

The rescue and rehabilitation approach also fails to take into account problems with informed consent regarding rescue and repatriation. At least some of the repatriation of Nepali women from India back to Nepal is forced,\textsuperscript{76} and some women either refuse to answer questions\textsuperscript{77} or give false addresses that cannot be verified so that they will not be sent back.\textsuperscript{78} In addition, sometimes women do run away from shelter homes.\textsuperscript{79} One interviewee at the Anti-Human Trafficking Unit in Kolkata, West Bengal explained that rescues take place if/when the police receive a complaint or other pertinent information. The women are not consulted \emph{or asked any questions during rescues}, and sometimes NGO personnel might do rescues without a police presence. The women are subsequently examined by the police and taken to Court to appear before a Magistrate. It is the Magistrate who decides “whether she should be returned to her husband or relatives, or sent to a safe house.”\textsuperscript{80} The tone of the procedures that are accepted and supported by a body that was created by the United Nations Office on Drugs and Crime (mandated to co-ordinate with local police to implement the ITPA) is not one that is conducive to the exercise of trafficked women’s autonomy. Rather, it assumes that all women who are rescued were trafficked. Thus, the rescue and rehabilitation approach in general allows for further violations of trafficked women’s human rights of liberty, freedom of movement and even arbitrary detainment against their will.

\textsuperscript{75} WB 2. Interview with author, West Bengal, October 2009.
\textsuperscript{76} KTM 2. Interview with author, Kathmandu, May 2010.
\textsuperscript{77} WB 3. Interview with author, West Bengal, October 2009.
\textsuperscript{78} WB 4. Interview with author, West Bengal, September 2009.
\textsuperscript{79} WB 10 and WB 11. Interviews with author, West Bengal, October 2009.
\textsuperscript{80} WB 9. Interview with author, Kolkata, 2009. Based on my data, it seems that the majority of women go to a shelter home, at least in the first instance.
Furthermore, shelter homes in India and Nepal offer few opportunities for active consultation with trafficked women.\footnote{WB 5. Interview with author, Kolkata, 2009.} I will explore these issues and offer evidence in much more detail in the critical moral ethnography in Chapter Two.

The anti-sex trafficking regime does not rest on a human rights framework as it claims to do. This is evident in the fact that measures meant to help those caught up in trafficking are by no means mandatory. For example, Article 6 of the UNTP states that:

Each state party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society.\footnote{United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Article 6, italics added. Accessed April 2008 at http://www.unodc.org/unodc/en/treaties/CTOC/index.html?Fulltext.}

Such measures have not been forthcoming in any meaningful sense at the international level, which is unsurprising, given that most national approaches still hold the view of prostitution as a crime and trafficked women as either criminals or illegal migrants.\footnote{Kempadoo From Moral Panic to Global Justice, xxii. Comparatively few states have legalized prostitution, e.g., Australia and the Netherlands. However, even in these cases, the seeming threat of the female sex migrant remains.} Internationally, for most trafficked women, \textit{temporary} residence in the receiving (often developed) country is dependent upon cooperation with law enforcement officials and testimony at trial. This is the case, for example, in the Netherlands\footnote{Joyce Outshoorn, “The Political Debates on Prostitution and Trafficking of Women,” \textit{Social Politics} 12:1(2005), 144.} and the United States of America.\footnote{Nora Demleitner, “The Law at a Crossroads: The Construction of Migrant Women Trafficked into Prostitution,” in \textit{Global Human Smuggling: Comparative Perspectives}, eds. D. Kyle and R. Koslowski (Baltimore: John Hopkins University, 2001), 277.} Such an approach ignores the complexity of the problems surrounding the trafficking of both “coerced victims” and sex workers—many issues may have led to the status of “trafficked person,” including forced marriage, debt bondage, and slavery based on
a false promise of foreign employment. These local differences have a huge impact on the wisdom and effectiveness of particular strategies.

There are two levels of responsibility in anti-sex trafficking governance policy. The first is to stop sex trafficking and the second is to provide care for trafficked women. This is explicitly laid out in the UNTP, which states as its purpose:

a) To prevent and combat trafficking in persons, paying particular attention to women and children;

b) To protect and assist the victims of such trafficking, with full respect for their human rights; and

c) To promote co-operation among State Parties in order to meet those objectives.86

There is a clear mandate for care, and this is also reflected in the national policies of India and Nepal. The Nepal Control Act has a section devoted to “rescue, rehabilitation and reconciliation,” while the ITPA states that after rescues have taken place, Magistrates have the authority to determine “if a person is in need of care and protection.” If so, he or she can make an order for transfer to a “protective home.” When such a determination is made, the stay in a home will be no less than one year and no greater than three years.87 However, as I have argued above, the nexus of interest in ending prostitution and moral judgments against the latter have meant that governance efforts to date have not addressed the gendered relationships which enable sex trafficking, reduced the global traffic itself, or provided appropriate care to trafficked women. Remaining focused on whether prostitution can be voluntary obscures the gendered relationships which lend to the construction of a passive

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87 Immoral Traffic Prevention Act, 1956, Section 17.
victim who is incapable of exercising her autonomy, thus requiring “rescue” or “saving” from her circumstances by those who “know best.” This is well illustrated in the popularity of rescues as an anti-trafficking measure— as mentioned, a practice which assumes that all trafficked women are located in the red light districts of cities, and that all the women located there desire to be rescued. This particular understanding of which rights of women are at stake and of the best way to protect them coincides with abolitionist feminist efforts. The latter have been accused of using poor women’s sexuality to gain anti-trafficking sympathy and justifying interventionist measures via the construction of the image of a naïve and passive Third World prostitute. The claim to speak for all women is intricately woven into the UNTP— a grave error given that some “trafficked victims” do not necessarily identify themselves as such. The concrete effect has been that the divided opinions and debates on whether prostitution is good or bad have been at the expense of the real needs of trafficked women, and have resulted in weak and contradictory government policy in the case of Nepal and a failure to agree on much needed updated amendments to the very old anti-sex trafficking legislation in India.

Perhaps the most harmful effect of the voluntary/forced dichotomy which underpins the UNTP and related national laws such as the ITPA and the Nepal Control Act is the window of opportunity it provides for human rights abuses within the sex industry. Yet, there is a basic inconsistency in the abolitionist position at the level of policy debate and analysis, and

88 Kempadoo From Moral Panic to Global Justice, xxiv.
89 Kathryn Farr, Sex Trafficking: The Global Market in Women and Children (New York: Worth Publishers, 2004); Kempadoo From Moral Panic to Global Justice. Rescue missions are cooperative efforts between law enforcement officials and NGOs, and involve raids on brothels to rescue and repatriate trafficked women.
90 Kempadoo From Moral Panic to Global Justice, xxii.
91 Doezema Ouch! Western Feminists’ Wounded Attachment to the Third World Prostitute.
92 Kempadoo notes that many women identify themselves as migrant workers who have made a bad decision, rather than as victims of sex trafficking. Kempadoo From Moral Panic to Global Justice, xxiv.
93 KTM 11. For example, prostitution is neither criminalized nor decriminalized. In practice, it is treated as a crime. I shall explore this in much more detail in Chapter Three. Interview with author, Kathmandu, 2010.
on the ground in terms of implementation. According to abolitionist feminists, since prostitution cannot be consensual, then there is by definition no violation of the autonomy of trafficked women by rescuing them from the sex trade. They could not have willingly chosen to be there or to continue to be there after having been trafficked. However, in practice, both pro- and anti-prostitution NGOs and law enforcement officials recognize the fact that some women have either chosen to migrate for sex work or express a desire to remain after having been trafficked. The evidence given by one representative of an anti-trafficking NGO sums up this general trend: “Many Nepalis come with the intention of working in the sex trade because of abject poverty. No road, water, sanitation, etc. And they just refuse to go back. Even when the Nepal Consulate comes to help repatriate them, they refuse.”94 Most anti-sex trafficking activists, in describing their practices, maintain that women are not forced to do anything that they do not want to do. However, as I shall outline in detail in Chapters Two and Three, practices such as police raids, rescues from brothels, border rescue, and rehabilitation programmes often provide the context for the violation of the human rights of trafficked and non-trafficked women, for example, rights to liberty and freedom of movement. The women who are willing to remain fall outside the purview of abolitionist arguments, as from this perspective it is either not possible to be “willing” or, alternatively, they cannot be viewed as having been trafficked for sex. Kathy Miriam argues that “women who ‘willingly’ sell themselves to men for sexual use are not intelligible as true victims of forced sex. (They are always asking for it).”95 The philosophical argument that favours the abolition of prostitution as a means of stopping sex trafficking does not have a strong foundation in practice. Therefore, at the moment, there are two inconsistent forms of

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94 WB 2 (original emphasis). Interview with author, West Bengal, October 2009.
95 Miriam Stopping the Trafficking in Women, 11.
moral judgment—there can be no willing sex workers in theory vs. in practice, there are some who want to stay (the voluntary as opposed to the forced) but who can be persuaded to not return to the sex trade because they are making bad decisions. In other words, there are victims and there are women who make immoral choices. These judgments serve as allies for each other in their respective spheres of debate/activism/policy-making and practice.

Concomitantly, many of these feminist groups pay little attention to the possibility that making all prostitution illegal may increase black market activity in sex trafficking and cause women who want to migrate to be more vulnerable to traffickers, both of which increase the likelihood of human rights abuses being inflicted on trafficked women (sex workers or otherwise). This possibility is noticeably absent in many abolitionist feminist analyses, despite the existence of empirical evidence to suggest that this is the case. For example, Sanghera points out that greater controls on the Indo-Nepal border merely drove sex trafficking further underground. In addition, Shamir and Kotiswaran note that tying US aid to prohibitionist prostitution rules did not end prostitution in Israel and India. Yet, NGOs which “promote prostitution” were also deemed inappropriate partners for USAID anti-trafficking grants.

The tying of US aid took place with the support of abolitionist governance feminist groups in conjunction with the conservative religious right groups that made it possible. Funding is also restricted based on whether recipient states legalized prostitution. This policy has global implications, particularly in Nepal where the government actively follows

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96 Sanghera Unpacking the Trafficking Discourse. 10-11. I will discuss this in much greater detail in Chapter Three.
97 Halley et al From the International to the Local, 423.
99 Halley et al From the International to the Local, 360.
the lead of US anti-sex trafficking policy and in practice treats prostitution as a criminal offence in order to qualify for funding.\footnote{100} In these cases, the moral interest in ending prostitution (and by extension, sex trafficking) was sufficient to overcome any obstacles to aligning with, or “piggybacking” on the power of, governmental and non-state actors who would normally be viewed as the embodiment of the liberal patriarchal order which underpins the sexual contract. The resulting intervention into generalist forms of power-wielding hardly seemed feminist at all. Those who suffer are the trafficked women who are the subjects of anti-sex trafficking governance policy and at a more general level, all female migrants whose movements become subject to unwanted scrutiny through exercises such as border patrols. While some feminists who reject the possibility of consensual prostitution exhort others to theorize women’s agency “beyond the liberal contract,”\footnote{101} the political project of ending “sexual domination” seems to justify even the denial of opportunities to exercise any form of agency, whether “beyond the liberal contract” or not. The stories of Shashi and Charu demonstrate how ignoring the views of those women who do not share this philosophy, or to characterize them as somehow not fully understanding themselves, is contrary to fundamental feminist ideals which support women’s exercise of autonomy.

I will explore in detail in the subsequent chapters how a more effective definition of sex trafficking and anti-sex trafficking policy can be achieved without being based on the criminalization of prostitution. Yet, an exploration of the topic of sex trafficking cannot be undertaken independently of some degree of consideration of the sex industry, as they are distinct but related issues. Given this fact, it would be more helpful for abolitionist and pro-sex work feminists to identify their common beliefs and work onwards from that point, rather

\footnote{100}{KTM 4. Interview with author, Kathmandu, 2010.}
\footnote{101}{Miriam Stopping the Trafficking in Women, 13.}
than remain in an ultimately debilitating ideological deadlock. Inglis points out how “The legalization debate exemplifies how feminists can come to different conceptualizations of female autonomy in the context of gender subordination, even though the concern is the same: how to advocate for changes in culture and behaviour that reflect an increased possibility of realizing women’s control and power over themselves and their surroundings.”102 Female autonomy is the crux of the debate—while abolitionists believe that it is impossible to exercise autonomy in the context of prostitution and that being a prostitute is of further detriment to autonomy itself, pro-sex work feminists argue that it is indeed possible to exercise autonomy as a sex worker but that attempts to criminalize prostitution weaken these possibilities. Trafficked women, by default, remain suspended in the deadlock of this debate. Both abolitionist and pro-sex work feminists are concerned with women’s human rights, and both can agree that this would include the full recognition and application of labour rights for women. However, their suggested paths for arriving at this endpoint differ and as a result, the actual outcomes and effects on autonomy also differ.

The most important issue with regard to sex trafficking is not whether prostitution is actually sexual domination, or how to stem the flow of female sexual labour. Rather, it is how to address and prevent the human rights abuses associated with the sex trade and trafficking in persons. This can only be done by considering the rights and the needs of trafficked women as defined by the women themselves. The paucity of research and

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102 Shelley Case Inglis, “Expanding International and National Protections Against Trafficking for Forced Labour Using a Human Rights Framework,” Buffalo Human Rights Law Review 55 (2001), 86. While I agree to some extent with Inglis in her assertion that one of the key issues associated with the prostitution debate is what it means to control one’s sexuality when it is constructed by gender forces, I disagree with her statement that prostitution is the result of gender subordination (2001: 86). It seems that this statement runs in the same vein as the abolitionist position without considering the possibilities for the exercise of autonomy. All women do not start from a position of zero autonomy and enter the sex trade. Alternatively, one might ask the question of whether prostitution is likely to exist in a context of gender equality. Absent a “perfect” world in which all sex occurs within the boundaries of a heterosexual marriage/partnership, the answer might be yes.
academic literature that is based on empirical data reflects how moral judgments against
prostitution are simply layered over the problem of sex trafficking, particularly in terms of
how policies are implemented, as I have described above. However, all women who are
unwittingly caught up in sex trafficking deserve equal attention in feminist analyses and
related activist efforts. As demonstrated above, the creation of the “innocent victim” seen as
necessary to justify intervention efforts (which are themselves often lacking) does very little
in terms of achieving the types of structural change with which feminism is concerned, for
example, fostering women’s ability and capacity to exercise autonomy in the context of
decisions to migrate. Barriers to migration and the criminalization of prostitution as a
panacea for sex trafficking are antithetical to a feminist project committed to addressing
social, political and economic structures which place women at a disadvantage.

The division of feminist support between the voluntary/guilty sex worker and
forced/innocent victim camps detracts from the issues of trafficked women’s compromised
autonomy and the human rights abuses in both the process of sex trafficking and the process
of attempting to stop sex trafficking. The UNTP and its related intervention measures are
meant to combat a process that is riddled with human rights abuses against women. As the
effects of existing international, regional and national policy demonstrate, the claim to be
protecting women’s human rights cannot simply act as a screen for a moral judgment and
anti-prostitution policies which make no effort to consider the actual human rights and needs
of the women who are trafficked for sex, as understood and articulated by the women
themselves. Given the clear absence of practical consensus with regard to women’s human
rights in the context of prostitution and sex trafficking, I will show in the next chapter why a
feminist ethic of care should be used as a means of working through this harmful deadlock
and shed light on what type of anti-sex trafficking policy might resolve the issues that I have described above. The subsequent chapters will be devoted to demonstrating how this can be done.

B. Methodology

This project will not result in an overarching theory of ethics that is firmly grounded in the realm of metaphysics. Rather, it shall do the opposite by using one issue to investigate how we might practically apply the ethic of care to envisage a different approach to global governance, one that does not gloss over the ways in which assumptions regarding morality and gender affect real lives. The ethic of care critiques universalizing moral judgments, and the methodology was directed towards reconciling the need for contextual sensitivity with the need to care for all women trafficked for sex. Thus, I resist the claim that sex trafficking governance policy must be based on a standpoint of care. Rather, I shall address the claim that the ethic of care can form the basis of policy that more effectively addresses the needs of trafficked women, and this must be justified by reference to the contexts in which the prescriptions of care are meaningful. This hinges on the methodology of the ethic of care—the interpersonal view of the alternative epistemology that considers how/why/when rights are violated and what needs are/are not being met. Therefore, the answer to my research question emerged from the application of the methodology.

Focusing on detailed life histories places my dissertation in the realm of non-positivist social science, and is more in keeping with what Tickner describes as an “archaeological
dig”¹⁰³ — that is, feminist research is more like a journey of discovery, rather than an objective means of testing the validity of hypotheses within a positivist framework. Ethical analysis aims for “thick” description, and this has enabled me to conduct a thematic analysis¹⁰⁴ — identifying broad issues, experiences, processes and most importantly, the patterns of care and responsibility that are either present or deficient at the local, national and international levels. These have subsequently been interpreted in the critical moral ethnography and applied to answer my research question. Overall, my key finding was a threefold one. National policies such as prosecution for engaging in prostitution will inevitably have little positive impact on either the incidence of sex trafficking or caring for trafficked women. Effective international policy should not only emphasize the need to enhance opportunities for the exercise of autonomy and end discrimination against trafficked women but, furthermore, it should also carefully refrain from becoming anti-prostitution statements.

I have chosen to locate my project in South Asia for two reasons. The first is that the occurrence of sex trafficking has been well documented here, and the second is the close proximity of a sending area (Nepal) and a receiving area (the state of West Bengal in north-eastern India). This was helpful in terms of working with a limited budget, as it was necessary for me to make the connections both on the sending and receiving ends. I embarked upon detailed examination of these case studies by exploring the experiences of trafficked women in order to cast light on the relationships between prostitution, migration and trafficking (rather than simply equating one with the others). This will provide the foundation for an ethic of care analysis in the following chapters.

¹⁰⁴ Hennink and Simkhada use this method to gain “contextual information on the process and circumstances of sex trafficking.” Hennink and Simkhada Sex Trafficking in Nepal, 2.
Sex work research carries several methodological and ethical challenges that must be acknowledged and accounted for in my project. The universe of cases is unknown, and in these conditions, as Shaver points out, getting a representative sample is difficult.\textsuperscript{105} However, with a great deal of persistence, I was able to interview trafficked women in both India and Nepal. In addition, to a lesser extent in Nepal, I interviewed female migrants subject to various forms of economic exploitation and sexual abuse. Some of these women had migrated within the country and others had gone via India to various countries in the Middle East. As far as possible, I tried to include interviews with both sex workers and non-sex workers who had been trafficked, in order to compare their experiences and determine the best means of designing sex trafficking responses that are not based on a conflation with prostitution.

For ease of reader reference, I have organized these interviews into the list below.\textsuperscript{106}

**India** (thirty-four in total)

1) Twenty-three women who had been trafficked from different states within India to the red light area of Kolkata in West Bengal state, and subsequently decided to remain in the sex trade.

2) Ten women who had been trafficked from Nepal to brothels in Kolkata and were subsequently rescued by an anti-prostitution NGO.

\textsuperscript{105} Frances M. Shaver, “Sex Work Research: Methodological and Ethical Challenges,” *Journal of Interpersonal Violence* 20:3 (2005), 296.

\textsuperscript{106} Unless otherwise stated, the interviewee was trafficked for sex work.
3) One woman who had been trafficked from Bangladesh to Uttar Pradesh state in India, before ending up in the red light area of Kolkata where she stayed on as a sex worker.

Nepal (fifty-one in total)

1) Eight women from various parts of Nepal who had entered the restaurant industry\textsuperscript{107} in Kathmandu by various means. Of these, five had been trafficked. Furthermore, of these five women, two had been forcibly married.

2) Twelve female domestic labour migrant returnees in Eastern Nepal who had worked in Saudi Arabia, Kuwait, Hong Kong and Israel. Of these, four had not been trafficked. All except one woman (who had worked in Israel) had been subject to economic or physical exploitation, or a combination thereof. Two of the women who did domestic work were also sexually abused (one had worked in Kuwait and the other in Saudi Arabia).

3) One woman from Eastern Nepal who had been trafficked to a brothel in Kuwait (and subsequently re-trafficked within the country).

4) Four women from Eastern Nepal who were rescued at the Indo-Nepali border as they were in the process of being trafficked.

5) One transgender person from central Nepal who had been trafficked to a brothel in Mumbai, India and subsequently returned home.\textsuperscript{108}

\textsuperscript{107} The contours of the restaurant industry in Kathmandu shall be explained in detail in Chapter Two.
Twenty-five women who had been trafficked from various districts of Nepal to the red light area of Kathmandu, and subsequently decided to remain in the sex trade.

I supplemented these interviews by obtaining as much information as possible from organizations that have contact with women trafficked for sex or sex workers in general, including NGOs, state agencies, and relevant law enforcement officials. The state agencies included the National Women’s Commission in Nepal, the National Women’s Commission in India and the Women’s Commission of West Bengal. Wherever possible, I collected literature from these organizations and I used libraries in each country to avail myself of data and reports that were not available in Canada. Apart from analyzing the relevant Indian and Nepali laws, I also conducted elite interviews with police and government officials, IGO employees and NGO employees to learn about the socio-economic context of sex trafficking and anti-sex trafficking policy. In India, I did thirty-five such interviews and in Nepal, I did thirteen. The total number of interviews was 133—forty-eight elite interviews and eighty-five primary interviews with female migrants.

I identified the relevant anti-trafficking organizations through my own research. After initial interviews with NGO officials and proceeding with their own internal ethics review process, I was able to conduct interviews with the trafficked women (or, in the relevant cases, restaurant workers and domestic labour migrants). In some cases, I identified women via “snowballing”: once initial contact had been made, I built on these relationships to identify

108 She was released by the brothel owner after she contracted HIV. In Nepal, “transgender” denotes a man who has not had a sex change operation, but in all other respects is considered female.

109 All geographic regions. Nepal’s northern and western topography is dominated by the Himalayas, and women are trafficked from these “hilly” areas to urban areas in the heavily populated flatter terrain in the South and East, and from all areas to Kathmandu.
others through the interviewees’ own personal networks. For example, I interviewed a madam in Kolkata who had herself been previously trafficked, and she subsequently arranged for me to interview three other trafficked women. Using multiple data sources, informants and methods in this way helped to at least partially overcome some of the difficulties inherent in accessing trafficked women.\textsuperscript{110}

Two other associated methodological issues were concerns regarding confidentiality and potential stereotypes about sex work and victimization.\textsuperscript{111} The need to protect the identities of informants because of the nature of the topic is clear, but with regard to other types of informants, it was also necessary to be aware of alternative agendas (for example, with pro or anti-prostitution groups or law enforcement officials). These alternative sources of information have been treated carefully in my written analysis, especially since the aim of a care approach is to base policy on the needs of trafficked women in this issue area, rather than on any moral assumptions regarding the best way to deal with the problem.

Moral assumptions tie in closely with the issue of stereotypes. The association between sex work and victimization has driven official policy responses to sex trafficking to date, despite growing evidence that this picture is not wholly accurate.\textsuperscript{112} Many reports, such as those which characterize sex work as always associated with physical and sexual violence, are taken as hard evidence that prostitution fuels sex trafficking. At the same time, these very reports are challenged by sex workers’ organizations and researchers who question the validity of the methods by which these conclusions were reached.\textsuperscript{113} These considerations relate to my research because it is important that I try as hard as possible to set normative

\textsuperscript{111} Shaver \textit{Sex Work Research}, 297.
\textsuperscript{112} Ibid., 297.
\textsuperscript{113} For example, Shaver notes that many studies which argue that physical and sexual violence often facilitate prostitution fails to use comparison groups to test the conclusion. Shaver \textit{Sex Work Research}, 307.
biases aside in my research design,\textsuperscript{114} or at least be aware and explicit about how they affect my project. This would include, for example, being careful of assumptions regarding prostitution or the desirability of migrating to engage in prostitution. I made a conscious effort not to assume that women would prefer to remain in their villages rather than migrate, whether for prostitution or under the impression of leaving home for different forms of employment. Allowing assumptions or stereotypes to influence ethical analysis\textsuperscript{115} would be equivalent to using a pre-existing moral template to arrive at judgments— the very process to which the ethic of care so strenuously objects. However, any normative agendas must be made clear. In this dissertation, my normative goal is to apply the ethic of care in such a way as to try to overcome gendered structures which discriminate against women and outline how anti-sex trafficking policy can be designed and harnessed to adequately care for those who are trafficked. Here, I will demonstrate how the application of the ethic of care can provide guidance regarding better alternatives to existing policy, both in terms of enabling trafficked women to exercise their autonomy and reducing sex trafficking.

\textsuperscript{114} I acknowledge here that this was neither easy nor always completely possible.

\textsuperscript{115} I describe this process in more detail below as part of the critical moral ethnography method. As an initial example of the problems with this kind of bias, many rehabilitation programs are premised on this very assumption, with negative results.
(i) Method: Critical Moral Ethnography

Advocating a contextually-based form of moral inquiry may be criticized for being “easier said than done.” Particularly in a global context, it would be impossible to account for every situation and every contingency, especially with regard to sex trafficking and the difficulties I mentioned above in establishing a sample. However, I would argue that the importance of the analysis is neither diminished nor made less relevant by starting with a small study, particularly as the majority of the existing academic literature in this field relies on secondary sources. The most important gain may be re-orienting normative analysis in this area of International Relations (IR) to a method that links governance policy with its subjects, based on evidence from empirical data.

Fiona Robinson advocates the critical moral ethnography as a feminist method for doing normative ethical analysis in IR. Applied to the issue of sex trafficking, it can achieve the goals of ethical analysis via several stages. Firstly, it involves careful analysis of the socio-political and gendered contexts in which both sex trafficking and the policy response are taking place. This includes understanding how some moral positions have been consistently dominant and why, who holds these positions, and how the results have affected women trafficked for sex via interviews and research as outlined above. In other words, the gender of governance and governance of gender structures shall be examined in detail based on the data rather than extrapolated from secondary literature. First, how gendered social structures affect the circumstances of migration and enable sex trafficking (the gender of governance) and second, how the attitudes regarding prostitution and women’s sexuality in general have affected care for women who are trafficked (the governance of gender).

116 It should be noted that in the end, the number of primary interviews greatly exceeded my expectations.
117 Robinson Methods of Feminist Normative Theory, 232.
The critical moral ethnography represents “a commitment to moral inquiry which focuses on, rather than overlooks, the everyday lives, the permanent background, of real, embodied people.” It is from this commitment that any policy recommendations must stem. There have been two examples of recent work that apply an ethic of care analysis to the issue of sex trafficking, based on an analysis of secondary literature. Fiona Robinson focused on the demand side of sex trafficking and located the problem within the wider framework of the global political economy. She argues that a critical, feminist ethic of care can be harnessed to reconceptualise human security in order to better understand the demand factors that fuel the illegal trade in women. From the supply side, Olena Hankivsky conducted a critical moral ethnography of sex trafficking in Ukraine. In her application of the ethic of care, she argues that the use of care ethics can “deepen the understanding of the root causes of migration” and in so doing, reveal how sex trafficking can be conceptualized in part as stemming from a response of female migrants to “care deficits.” These care deficits can be traced back to the structures of the liberal national and global political economies in which women often face great difficulties in providing adequate care to their dependents, while governments do not step in to provide care when individuals are unable to do so. These works are useful steps in locating the problem of sex trafficking in the context of the wider gendered structures of the global political economy. It is important to consider these gendered structures (including those of the global political economy) that underpin particular conceptualizations of the problem of sex trafficking. Furthermore, a

118 Ibid.
critical moral ethnography can be conducted with or without engaging in fieldwork. However, I believe that in order to take the ethic of care application to the transformative stage of normative policy recommendations with regard to anti-sex trafficking policy design, fieldwork in necessary in order to truly understand trafficked women’s needs and claims. This is because of the complex manner in which the problem in situated within the framework of the pro vs. anti-prostitution debate, and because of the complexity of the lives of trafficked women.\textsuperscript{121} The nature of this debate is such that the proposed solutions to the problem of sex trafficking reflect a philosophical position against prostitution that is taken to be valid for all women. Thus, the view that prostitution is a violation of women’s human rights and the cause of sex trafficking is, for many, an unquestioned ethical necessity. The existing solutions begin with this \textit{a priori} assumption. Interviews with trafficked women were necessary to understand how this assumption has come to be accepted by the international community, how it plays a role in the design of anti-sex trafficking policy, what effect it has on the lives of trafficked women, and what would form the content of more effective anti-sex trafficking policy. Feminist ethicists must “take responsibility for articulating the conditions within which any prescriptions made are meaningful and therefore the kind of world which they would imply.”\textsuperscript{122} These prescriptions can only be meaningful if they are based on the knowledge shared by the subjects to whom these prescriptions are meant to apply.

\textsuperscript{121} It is possible (and perhaps for some analysts would be preferable) to approach the problem of sex trafficking from the perspective of a migratory framework. However, I have chosen to analyze the pro- vs. anti-prostitution debate because it still figures so heavily in all discussions of sex trafficking. Even if a migration framework is used, the pervasiveness of the two distinct moral positions on the issue of prostitution and the inextricable connections with the issue of female sexuality is unlikely to be easily bypassed. Therefore, it is appropriate to consider how an ethic of care might be brought to bear on this important issue that affects the lives of many women.

\textsuperscript{122} For Hutchings, this is an integral aspect of moral epistemology. Hutchings \textit{Towards a Feminist International Ethic}, 122-123.
Striving for meaningful normative prescription was one of the main guiding principles of this project. I deliberately chose to not engage in a purely theoretical analysis of the ethic of care in a given issue area. This literature is relatively well-established, but applications of how the transformational potential of the ethic of care might be utilized in normative International Relations is as yet relatively undeveloped. Ackerly and True explain that feminist IR normative inquiry can take two forms. The first is to “draw on gendered experience to reveal the normative gender bias inherent in the dominant conceptual frameworks for thinking about international relations,” while the second is to “use that knowledge to revise core IR concepts such as the nation-state, security, and power in such a way that they might illuminate rather than obscure a range of social relations on a global scale.”

Using the ethic of care in an analysis of sex trafficking does indeed reveal normative gender biases. Furthermore, while it does not explicitly revise key IR concepts, it does reveal how and why certain social relations place women at a disadvantage and demonstrates how the relevant global governance policy can be adversely affected by moral judgments (in this case, against prostitution). It is the data of the critical moral ethnography that helps to do this work, and it is this data that also forms the bedrock of any normative suggestion of how these structures and relations might be transformed. To this end, the application of the ethic of care as I have utilized it here can be distinguished from works which do the necessary and important tasks of revealing gendered structures and the ways in which they work to women’s disadvantage, but do not utilize primary data gathered from the women as the basis of normative policy recommendations.

The primary interviews with trafficked women are at the core of the ethic of care application. The semi-structured interview format was employed to allow as much flexibility in the narrative as possible. This flexibility was necessary in order to gain the relevant information without forcing participants to recount traumatic or unpleasant details unless they desired to do so. The questions were designed to gain information about respondents’ socio-economic background, how they came to be trafficked and their feelings at that time (including their feelings about the context and nature of any decisions they made regarding prostitution), the nature of their lives and their feelings about their needs for their lives at the time of the interview, their views on anti-sex trafficking policy and what they felt should be done to help trafficked women, and what they wanted for their future. I did not ask direct questions about any kind of emotional, verbal or physical abuse (whether sexual or otherwise). Interviewees spoke about this only on their own initiative.

Within this framework, interviewees were considered the “expert,”125 that is, they were assumed to have the most knowledge about their lives, the relationships of which they are a part, and what they experienced. One of the main reasons for choosing a semi-structured interview format was to allow participants the freedom to “define the situation, structure their own account of the situation, and introduce their own notions about what was relevant.”126

In the same vein, Wildavsky advises a “teach-me approach” to the open-ended, semi-structured interview.127 The key aspect of the critical moral ethnography is the assignment of ontological and epistemological priority to participants’ lives and experiences. Care was taken to not make assumptions about women’s experiences.

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125 Raymond et al point out the usefulness of this method. Raymond et al A Comparative Study of Women Trafficked in the Migration Process.
126 Ibid., 6.
I did not make any attempt to interview women who were currently being held in coercive circumstances against their will. This decision was made partly for reasons of safety (my own and the interviewees’) and for ethical reasons. However, I did many interviews with women who had previously been held against their will in both India and Nepal. Also the interviews with very recently rescued trafficked women in the shelter home included some who had been held against their will and some who had not. I must also note one potential ground for a critique of selection bias with regard to the interviewees in Sonagachi, the red light area of Kolkata. Since these interviews were conducted via Durbar Mahila Samanwaya Committee (DMSC), the sex workers’ collective, there is a possibility that women who take an active interest in such a collective may be more likely to be autonomous and also perhaps more likely to be accepting of sex work as a profession. However, I believe that my sample compensates for this in several ways. First, not all of the interviewees in Sonagachi were members or active participants of DMSC, and furthermore, not all of the interviewees stated an acceptance or liking for prostitution. Second, I also did interviews in Kolkata outside of the red light area, as well as in the red light area of Kathmandu in Nepal, where the women do not belong to a formal collective. Yet, the results of the critical moral ethnography did not substantially differ.

I took a course in Hindi before going to India and I took private lessons in Nepali for the entire duration of my stay in Nepal. This helped in terms of establishing a rapport with interviewees and making them feel at ease. All of the interviews were conducted with the use of a translator, but I directed the content of each interview. In each case the translator was an employee of the relevant NGO and was subject to the necessary confidentiality agreements. The decision to record interviews always rested with the interviewee. For interviews in which the interviewee preferred not to be recorded, I took handwritten notes.
For the elite interviews, the questions focused on respondents’ assessment of the causes of sex trafficking; anti-sex trafficking policy; their assessments of the effectiveness of national, regional and international anti-sex trafficking policy; the perceived connections between moral judgments and anti-sex trafficking policy (if any) at the local level; and, if relevant, the nature of the work carried out by their organization with regard to sex trafficking. These interviews were conducted in English without the use of a translator. I identified these interviewees partly through my own research and partly through snowballing. In the body of the dissertation, I have assigned fictitious names to the narratives of the trafficked women. The elite interviewees are coded according to the location of the interview as follows: ND = New Delhi; WB = West Bengal; KTM = Kathmandu.

In conducting the critical moral ethnography, I was and still am fully conscious of the need to make my own interpretive judgments of what was said and the difficulties of doing so with material rendered to me by translation. I tried to minimize the margin of error by asking each question myself and having each question and answer translated individually, rather than allowing a translator to conduct the interview independently. I also had the recorded interviews translated a second time to fill in gaps that might have naturally occurred in the context of the spoken interview. I have attempted to remain as faithful as possible to the women’s articulation of their responses.

In Chapter Two (subsection [iii]) on “Needs,” I will explain in detail how I derived my key conclusion, that is, enabling trafficked women’s autonomy would be a much more effective approach to the problem of sex trafficking. With regard to method, I acknowledge that this conclusion has been derived via the use of translated interviews. As might be expected in the context of natural spoken language, the exact phrases used by interviewees varied. However, in keeping with the methodology of the ethic of care, the question to all
interviewees was the same— “what do you feel are your needs for your life?” In my own analysis of the responses, I came to realize that there was a broad yet common theme of autonomy. This was variously expressed as a desire for a greater sense of control, ownership over one’s life, a greater degree of independence, and/or increased capacities for decision-making with regard to alternative opportunities. It became the key result of the critical moral ethnography, and I will use the details of the interview data to justify this conclusion in Chapter Two.

The second key aspect of the critical moral ethnography in feminist ethics is transformational. Given the results of the critical moral ethnography, how might one look critically with a view to change in women’s favour? Exposing how certain values or attitudes are taken to be ethically necessary or that make the dichotomies meaningful is insufficient— an ethic of care would seek to suggest how those power structures might be changed in such a way that these changes are justified by reference to the moral knowledge gained in the first stages of the ethnography. Thus, for example, if the critical moral ethnography had revealed that anti-prostitution attitudes affect the level and quality of care that women receive, then from a care perspective another policy approach is justified. Obviously, this might change depending upon the results gleaned above. The point of the ethic of care is to base care on the “interpersonal view,” and this must also be the foundation for methodology. I shall explore these issues in much greater detail in Chapters Two and Three.

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128 Robinson, Methods of feminist normative theory, 233.
(ii) Reflexivity

Using a care approach automatically demands reflexivity on the part of the researcher, as it is the latter’s responsibility to justify any ethical judgments and recommendations for change by reference to the relevant contexts. As this also entails what Mohanty describes as “a mode of intervention into particular hegemonic discourses,” care must be taken to not simply use “Western” assumptions as a reference point. In this sense, my project has the advantage of not treating “women” in South Asia, female migrants, sex workers, and trafficked women as coherent and unchanging groups. Rather, my aim is to learn exactly how these women conceptualize themselves. In doing my analysis, one important task was for me to identify exactly which women I am talking about. My research does not apply to all women everywhere, and I could not assume to define women primarily as “victims.” As a researcher located in the West, I could not treat these women as objects to be studied, existing solely in terms of their relationship with certain institutions (in this case, domestic and international law and their related institutions). At the same time, my difference is not necessarily an obstacle to valuable research, and “understanding does not require being like the respondent.” Many feminist accounts point out that women are not sitting around waiting to be rescued via various forms of intervention. Rather, they are active subjects with real lives, and it is the task of research to learn how these lives are being lived and how the institutions which do have an effect can be ethically different. I came to appreciate the importance of this even further as I reflected on how my own conceptualizations of the problem of sex trafficking have changed. For most of my adult life, I had taken a generally

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130 Mohanty’s analysis of these issues helped me to clarify them in my own project. Mohanty, Under Western Eyes.

131 Wildavsky Craftways, 73.

132 Doezena Ouch! Western Feminists’ Wounded Attachment; Kempadoo From Moral Panic to Global Justice.
negative view of prostitution for granted. However, in the very early stages of this research project as I considered both sides of the debate in the context of female migration and sex trafficking, I began to question whether the reality always matched conventional wisdom. I embarked upon my fieldwork with the intention of being neutral on the debate. Based on all the knowledge and evidence that I have gathered from trafficked women (including many who have remained in the sex industry and many who have not) I have subsequently come to believe that in the absence of a wholesale end to all forms of gender discrimination, criminalizing prostitution will not solve the problem of sex trafficking, reduce female vulnerability in the sex trade, or even end prostitution. In arriving at this conclusion, I do not intend to trivialize the human rights violations that do occur in the context of sex trafficking and the sex trade. Furthermore, in keeping with the methodology of the ethic of care, based on the evidence of the critical moral ethnography, I have also come to the conclusion that women can and do make a considered choice to engage in prostitution. Thus, an insistence that doing so is a violation of their human rights amounts to a violation of their right to free choice of employment, particularly since, as I demonstrated earlier, prostitution is not criminalized in either Nepal or India. While writing and analyzing the critical moral ethnography, I have tried to remain mindful of these positions without making assertions about abolitionist positions that were not backed up with evidence. The finished dissertation is, I hope, based on “careful, historically specific generalizations responsive to complex realities” with regard to migration and sex trafficking, as opposed to simplistic generalizations.

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I acknowledge that this conclusion requires more evidence and analysis. I will do so in Chapter One in the context of my discussion of the ethic of care and human rights, and in Chapter Two in the context of the ways in which trafficked women do exercise their autonomy and make choices under constraints. Mohanty *Under Western Eyes*, 188.
In terms of the actual research findings, it is perhaps to be expected that there will always be variances in what one expects and what one finds. However, this is exactly the point of doing an ethical analysis and working with care both as a value and as a practice. While my ultimate goal was always to gather the information necessary to answer my research question, the tasks of analysis and ethical prescription could only be conducted based on my empirical data. Thus, while I may have had some initial ideas of what “more effective policy” might look like, I did not attempt to specify these a priori, nor did I allow them to bias my qualitative data collection. It is exactly the disconnect between real lives and remotely specified moral assumptions and policies that drives my research question. Therefore, through the process of collecting data, I was prepared not only to be reflexive, but also flexible.

One important area in which I came to appreciate the need for reflexivity was in both the design and concept of the term “global governance.” When I started off thinking about this project, my aim was to conduct an ethic of care analysis of the issue of sex trafficking in women, and then suggest how the ethic of care might influence better global governance policy (for example, by creating a trafficking protocol that is more in keeping with the kinds of problems and issues that all trafficked women face, not just “victims” according to a predetermined framework). However, I realized that this approach not only assumed the existence of a coherent category of “trafficked women” or even “female migrants” requiring outside intervention to improve their lives, but it also assumed that the best solution lay in a global governance approach. Indeed, I was guilty of many of the ways of thinking and being that postcolonial feminist writers such as Mohanty critique. Having since re-thought some of
these factors, I embarked upon the fieldwork process quite prepared to consider that the critical moral ethnography may yield interpersonal knowledge such that an ethical prescription (or prescriptions) may or may not lie entirely outside the logic of Western-style human rights governance structures, or what Bhuta refers to as “privileged channels.” It may have been the case that in the spirit of the Universal Declaration of Human Rights, we cannot aspire to anything more specific than the vaguely-worded United Nations Trafficking Protocol with political and ethical change coming entirely from the local level. Alternatively, it may have been that I might have found that there are ways in which care and caring can be applied to international agreements and connected to local applications and interventions in the spirit of making “careful and informed” generalizations. While the latter turned out to be the result of my critical moral analysis, awareness of other possibilities was important.

Related to the need for flexibility is the complex issue of the relationship between ethics and power, and the ways in which the women I interviewed conceive of themselves within these relationships. This is closely related to the issue of which women fall into my analysis. As feminists, we often assume that women are “outside” of the power structures that have an impact on the course of their lives. One example of the implications of this assumption is readily apparent in analyses of the issue of human rights: because “woman” as a category is taken to have no voice in the articulation of human rights, human rights agreements therefore do not protect women’s human rights. Before beginning fieldwork, I

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135 I cannot claim to have re-thought every relevant factor, but I hope that my awareness of, and sensitivity to, these factors has increased during the course of research.
136 Bhuta argues that the fundamental design and institutions of Western liberal democracy has been and continues to be applied wholesale to the Third World without considering their peculiar historical contexts. Such “privileged channels for the exportation of political technologies, economic recipes or juridical models” include Western-style “democratization,” “good governance,” and “state-building.” Nehal Bhuta, “Against State Building,” Constellations 15:4 (2008), 521.
137 I am grateful to Prof. Jennifer Nedelsky for pointing out this possibility.
suspected that many women who migrate are located on the margins of power. However, I
did not place all of my faith on this assumption, but rather waited to see what I would learn.
As it turned out, it was certainly the case that the majority of women exercise their autonomy
to some degree and use migration as a tool of empowerment. In this sense, although some
(or many) aspects of power might be subject to critique (such as migration policies which
limit female migration or target sex workers, or the power which traffickers yield over
women who are deceived into thinking they are migrating safely), it would be incorrect to
make a wholesale assumption about female powerlessness.\footnote{It would also be presumptuous.}
Identifying how exactly power is implicated in the moral order I am studying is an important part of my ethical analysis.

Overall, this project aims to be an example of a concrete application of the ethic of
care. Relatively few such applications exist in care literature. It is also both a test of the
methodology of the critical moral ethnography in an empirical context and a test of how well
the ethic of care can be translated into practical global governance policy. I will return to an
assessment of these issues in the Conclusion of the dissertation. Chapters Two and Three are
devoted to the two key stages of the critical moral ethnography. Chapter Two will first
provide a description of the moral knowledge gleaned from interviews with trafficked
women and then engage in a critical moral analysis of this knowledge. It will cover the lives
of trafficked women before they left home, while in a trafficked situation, and the
aftermath.\footnote{As the ethnography will make evident, at this stage women may or may not have stayed in the sex trade.}
Overall, the entirety of this moral knowledge will be compared against the
parameters of an ethic of care approach. In Chapter Three, I will consider how this analysis
can be used to transform anti-sex trafficking policy at the national levels in India and Nepal,
and at the international level with regard to the UNTP. The UNTP will be analyzed in detail
and related back to the results of the critical moral ethnography in order to answer my research question. The foundation for this transformational analysis will be the concept of relational autonomy, justified by reference to the results of the critical moral ethnography.
Chapter One
The Ethic of Care

Due to its close association with sex and prostitution, sex trafficking is a fiercely contested issue. At the heart of this contestation lies both the philosophical question of what constitutes a rights violation in the context of prostitution and the practical question of whether/how this is related to sex trafficking. In the previous chapter, I have argued that existing anti-sex trafficking policy reflects the view that prostitution is a violation of women’s human rights and a key cause of sex trafficking. However, by treating trafficked women as a homogenous category and assuming that all of these women would necessarily benefit from an approach that focuses only on stopping prostitution in order to end sex trafficking, the policies do not take into account the variances in the experiences of trafficked women and the ways in which anti-sex trafficking policies might enable further rights violations in practice.

The previous chapter also demonstrated both how care for trafficked women is a goal that is embedded in governance policy and how in practice, the moral judgment against prostitution has resulted in ineffective anti-sex trafficking policy that has neither reduced sex trafficking nor provided adequate and appropriate care for trafficked women. In this chapter, I will argue that the ethic of care can form a more effective foundation for anti-sex trafficking policy. The relational ontology of the ethic of care draws attention to the ways in which trafficked women do not necessarily benefit from existing approaches. It does so via a detailed examination of the shortcomings of the existing policy framework with regard to the provision of care for trafficked women. The methodology of the ethic of care requires that
attention be placed on trafficked women— in particular, by listening to their voices. Doing so accomplishes two key goals. First, with regard to the gender of governance, the application of an ethic of care can help to reveal how gendered social structures affect the circumstances of migration and enable sex trafficking. Second, with regard to the governance of gender, it can help to reveal how attitudes regarding prostitution and women’s sexuality in general have affected care for women who were trafficked. It is this methodological feature of the ethic of care that also provides a way to resolve the contestations surrounding prostitution and human rights by clearly articulating the relationship of both with sex trafficking.

I will begin by outlining the key principles of the ethic of care. I will then return to the abolitionist vs. pro-sex work human rights debate to demonstrate how the use of the ethic of care can provide a useful way to work through the rights contestations, without denying either the usefulness or applicability of the language of human rights. In a sense, the ethic of care can go below the layers of the human rights debate to reveal the underlying mechanisms that render existing approaches untenable. I will then engage in an analysis of the context of sex trafficking in India and Nepal, in order to begin to demonstrate how anti-sex trafficking policies fall short when the criteria of the ethic of care are applied.¹ Based on this analysis, I will introduce the concept of relational autonomy. Autonomy emerged as the principal need of trafficked women in the critical moral ethnography. While the ethic of care does require sensitivity to the needs of moral subjects, it is not the case that anti-sex trafficking policy must reflect every need of every trafficked woman. Rather, in translating the results of an ethic of care analysis to the global level, it is possible to identify patterns of needs based on

¹ This process will continue in some depth throughout Chapter Two and particularly in Chapter Three.
trafficked women’s narratives. The most frequently cited needs were increased levels, and opportunities for the exercise, of autonomy. Fostering autonomy would, in turn, enhance women’s capacities and abilities to make and act upon decisions in their own lives. I will conclude the chapter by outlining the concept of relational autonomy and situating this within the ethic of care literature. This will form the theoretical foundation of the answer to my research question. The ethic of care can form the basis of more effective anti-sex trafficking policy if policy is directed towards fostering trafficked women’s autonomy, understood in a relational sense. Autonomous women are much less likely to be trafficked. The next two chapters will engage in a justification of this recommendation (Chapter Two) and what anti-sex trafficking policy based on this recommendation would look like in practice (Chapter Three).

A. The Ethic of Care

Although there is no single unified feminist approach to ethics, the ethic of care is regarded as a distinct form of feminist inquiry. It seeks to turn moral attention to contexts and relationships, rather than using abstract and universally applicable principles as the basis of moral decision-making. The latter, care ethicists argue, tends to obscure gender, race and class privileges, and ignores the modes of moral life that are viewed as subordinate and

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more readily associated with (although not limited to) women.⁴ Standard ethical analyses in IR remain largely within these confines, without expanding frames of reference to consider the impacts of international relations on real people.⁵ This in turn, as noted above, has far-reaching impacts on ethical applications in global governance. Indeed, Porter draws attention to the fact that although international relations may involve caring for distant others, there has been very little application of these values in theory and practice.⁶

The ethic of care is based on a social understanding of ontology, in which relationality is a basic condition of humanity. As Robinson explains, “Beyond the claim that humans are ‘social beings,’ the relational ontology of care ethics claims that relations of interdependence and dependence are a fundamental feature of our existence.”⁷ Given this ontology, the thrust of the ethic of care might be understood as partly normative and partly what I would describe as “realistic.” That is, in applying the ethic of care, my aim is not to prescribe a set of morally desirable frameworks that may not be realistically attainable and/or subject to the type of contestation that is typical of the prostitution/sex trafficking debate. Instead, the ethic of care takes its direction from existing social relations. It is the task of the ethicist to consider how these relationships figure in the articulation of responsibilities and practices of care. These practices of care have been captured by Tronto as follows—first, attentiveness or the recognition that care is needed; second, responsibility or actually taking care of

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⁴ There is a well-established body of literature on the debate between the ethic of care and the ethic of justice. It is beyond the scope of this dissertation to engage in this debate. I will note that for the purposes of this dissertation, my justification for using the ethic of care is the contextually-driven methodology as a means of informing anti-sex trafficking policy.

⁵ Terry Nardin and David Mapel, Traditions of International Ethics (Cambridge: Cambridge University Press, 1992) is the classic example of such work in International Relations, along with Mark Amstutz, International ethics: concepts, theories and cases in global politics (Lanham, MD: Rowman and Littlefield, 2005) and Gordon Graham, Ethics and International Relations (Oxford: Blackwell Publishers, 1997). Coicaud and Warner Ethics and International Affairs are a notable exception.


persons; third, competence or being able to take care of others; and fourth, responsiveness or considering the needs of the ones being cared for from their perspective.⁸

The normative inflection of the ethic of care becomes evident in its commitment to feminist politics and values. That is, there is an implicit opposition to gendered domestic and international structures which place women at a disadvantage in social, political and economic life. Thus, the aim is for an ethic of “universal relevance and particularist sensitivity.”⁹ This means that while care ethicists argue that the values of care can be applied at a general level, ethical judgments in global governance contexts must be justified with reference to the contextually located concrete needs of real people. For example, in the case of sex trafficking, this would entail responsiveness to the needs of trafficked women. In other words, an ethic of care can never be considered separately from politics, and for feminists, it is crucial that the political contexts of moral arguments be revealed and understood. I shall elaborate on this point below.

Robinson explains how an ethic of care can be employed in IR as follows: “While states and institutions may not ‘care for’ each other in the way that individuals do, they must make decisions— including moral and financial decisions— about the distribution, nature and quality of care for both their own citizens and, increasingly, those beyond their borders.”¹⁰ This is the case with both national and international anti-sex trafficking policies. Yet, in the provision of care, it cannot be assumed that this care is automatically “good.” Rather, “Care as a disposition is reflected in multiple and diverse relational contexts that shape needs and relations of power and define the nature of care. Relations of care are not always good or pure...part of the job of the care ethicist is to consider the conditions under

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¹⁰ Robinson, The Ethics of Care, 3.
which relations can, and often do, become relations of domination, oppression, injustice, inequality, or paternalism.”11 Therefore, applied to issues in IR, an understanding the nature of these relationships of responsibility and how caring occurs requires an understanding of the relevant political contexts. When this understanding of “the nature of the world we inhabit”12 is established, the normative prescription would be based on a consideration of how responsibilities can be best fulfilled through practices of care.

Responsiveness to the objects of care in their personal and wider political contexts is based on what Urban Walker describes as “moral knowledge.” Urban Walker’s “alternative epistemology” for a feminist ethic is based on the relational moral understanding that comes from knowledge of the “concrete other.” This alternative epistemology contains three elements: attention, contextual appreciation, and communication, from which moral knowledge can be gleaned and deployed as an alternative to universal conceptualizations of moral rules.13 In this approach, the adequacy of moral understanding decreases as its form becomes increasingly general and abstract, hence Urban Walker’s assertion that “The long oscillation in Western moral thought between the impersonal and the personal viewpoints is answered by proposing that we consider...the interpersonal view.”14 The interpersonal viewpoint of the alternative epistemology enables moral understanding of concrete individuals. In gaining this understanding, the means by which responsibilities can best fulfill caring needs becomes more apparent.

It is certainly the case that moral philosophers have raised objections to, and engaged in debates about, the feasibility of abstract universal templates for resolving moral questions.

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11 Ibid., 5.
13 Urban Walker Moral Understandings, 75.
14 Urban Walker Moral Understandings, 76: original italics.
However, where these philosophers part way with an ethic of care approach is in their assumptions about the nature of the debate and how these fundamental philosophical puzzles might be resolved. As Tronto points out, these puzzles remain as such because “the participants within the discussion presume, for the most part, that the question of meta-ethical adequacy is a question that can be resolved within the framework of philosophical discussion itself.”¹⁵ That is, philosophical discussion among those who are removed from the moral issues themselves. The interpersonal view of the ethic of care seeks to bridge that gap and enable philosophical engagement with those for whom the relevant moral issues are most salient. The necessity of this shift is evident with regard to the issue of women’s human rights in the context of sex trafficking, and it is to this issue that I will now turn.

B. The Ethic of Care and Human Rights

There is no definitive consensus among feminists regarding the compatibility of the ethic of care with the standard hallmarks of liberal theory, including human rights. Indeed, some rights theorists view the contextuality of the ethic of care to be incompatible with the notion of universal human rights.¹⁶ In addition, while many rights-based feminists question the concept of “universal” human rights, they are concerned that an ethic of care threatens to perpetuate women’s inferior position within the structures to which they have traditionally

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¹⁵ Tronto Moral Boundaries, 149 (italics added).
¹⁶ It should be noted that there are rights theorists who advocate for a greater degree of contextuality in understandings and applications of human rights, although not necessarily within the framework of an ethic of care. See, for example, Jennifer Nedelsky, Law’s Relations: A Relational Theory of Self, Autonomy and Law (Oxford: Oxford University Press, 2011).
been confined. In the field of IR and global governance policy, it is unlikely that either national or international policies will move away from the language of human rights. In this dissertation, it is not my argument that they should. Rather, I will argue in this section that the ethic of care and the concept of human rights can serve as allies for each other in a common project of protecting the human rights of trafficked women.

The previous chapter demonstrated the seemingly irreconcilable philosophical and practical positions of abolitionist and pro-sex work feminists that feed into the issue of sex trafficking. That is, while abolitionist feminists argue that prostitution is a form of violence against women and therefore a violation of women’s human rights, pro-sex work feminists argue that women have a right to choose their own profession and that not fully recognizing this right enables still further rights violations in the sex industry, including sex trafficking. Both sides might agree that human rights violations do occur within the contexts of sex trafficking and the sex industry. However, as the narratives of trafficked women in the Introduction demonstrated and as the critical moral ethnography will show in detail in the next chapter, not all women regard prostitution in and of itself as a violation of their rights. This is a problem because abolitionist feminists and policymakers have a particular interpretation of women’s human rights in this context that is taken to be valid for all women.

How might the international community go about protecting a right when the right itself is so heavily contested? In this case, even the responsibility to protect rights is not straightforward. Which right needs to be protected? Is it the right to not be sexually oppressed as a prostitute or the right to choose one’s own profession? One might become lost within the contours of this debate, and the right of trafficked women to appropriate care

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can begin to seem remote. The contestation of which human rights are at stake is firmly rooted in conflicting moral judgments. In this regard, the use of the language of rights in the context of sex trafficking has two shortcomings which the ethic of care can help to resolve—the assumption of sameness (or the failure to recognize difference) among trafficked women and an individualist ontology. These interact and impact upon the conceptualization of responsibility towards trafficked women. I will discuss each of these in turn below.

(i) Trafficked women are not all the same

Feminist rights discourse has highlighted the need to re-think “the specific ways in which women’s rights are vulnerable to violation.”\(^{18}\) In other words, a generic conception of human rights that is based largely on men’s experiences needs to be re-considered in the light of human rights abuses that occur as a result of women’s particular positions.\(^{19}\) The crucial implication here is that “the meaning of equality of right may be about the recognition of difference rather than the assumption of sameness.”\(^{20}\) While this recognition has been applied to great effect in many issues of crucial importance to women,\(^{21}\) the ineffectiveness of existing anti-sex trafficking policy might be seen, at least in part, as a reflection of the failure to recognize differences among women, and in this case, trafficked women. Therefore, it is insufficient and limiting to consider only how women’s rights differ from what is traditionally cast as universal human rights.

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18 Hutchings *Ethics, Feminism and International Affairs*, 199.
19 Rape as a weapon of war is one such human rights abuse.
20 Hutchings *Ethics, Feminism and International Affairs*, 199.
21 The long struggle to have mass rape recognized as a crime against humanity is one such example.
To state the obvious, trafficking of women for sex work is a threat that is largely particular to women. Even with human trafficking in general, the majority of those trafficked are women. Women also face other threats to their integrity which are particular to them such as forced marriages and social ostracism upon repatriation, all of which require an acknowledgment of the fact that these rights violations happen to women because they are women. Yet, human rights abuses continue to occur both within the process of sex trafficking itself and in anti-sex trafficking interventions, despite the fact that “all of the human rights violations that occur in trafficking are covered by existing human rights instruments.” Although these human rights violations may be covered, the application of human rights instruments that reflect one particular moral stance means that the potential for further rights violations goes unnoticed because it is obscured by the assumption that everyone benefits from the protection of the same rights. Thus, since prostitution is always taken to be a violation of women’s human rights, then it follows that it is a violation of all women’s human rights everywhere. This is clear in the UNTP where “exploitation” actually reinforces the dichotomous nature of the sex trafficking debate. While “forced labour or services” and “slavery or practices similar to slavery” are relatively straightforward human rights violations, “the exploitation of the prostitution of others” is much less so. Rather, it has arguably acted as a loophole to justify the protection of those deemed to be forced, innocent and morally upright victims, or to rehabilitate those who do not fit this description. As the critical moral ethnography will demonstrate in the next chapter, in the process of

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22 The implications of social ostracism on human rights can be quite severe, for example, lack of shelter.
23 Jordan Human Rights or Wrongs, 31. Among these are the Slavery Convention and the Supplemental Convention on the Abolition of Slavery.
protecting these particular human rights, the responsibility to provide care that is responsive to the needs of trafficked women becomes distorted.

If we remain in the realm of a rights analysis only, the question is, then, whose rights and which rights exactly need to be specified and by whom? Peach points out that “part of the problem is that the migrant sex worker has often been ‘viewed’ by others rather than having her own voice included in anti-sex trafficking discourse.” This only compounds the problem of applying a particular understanding of women’s human rights or claiming to speak for all trafficked women. She criticizes both abolitionist and pro-sex worker feminists for making such claims without considering the “complexity of sex worker subjectivity.” This observation can easily be extended — all women are not either victims or free and independent sex workers. Rather, a woman “trafficked” for the sex trade may have migrated illegally, been trafficked according to the UNTA’s definition, made an independent decision that becoming a sex worker served her economic interests, or a combination thereof. Even a feminist approach to human rights that recognizes difference is still generally based on a highly individualized subject, whether female or male. Thus, a solution such as that proposed by Kapur and Sanghera — the conceptualization of female migrant workers as holding multiple subject positions which may vary across time— still has the disadvantage of analyzing the individual trafficked woman as the only relevant unit of analysis “viewed

27 Peach *Victims or Agents*, 103. There is much empirical evidence to support the claim that trafficked women do not always identify themselves in black and white terms, as either “agents” or “victims” who want to be rescued (Farr *Sex Trafficking; Kempadoo From Moral Panic to Global Justice*). The fact that some women return to brothels after examining their choices provides support for these claims (Peach *Victims or Agents*). My own critical moral ethnography will also provide additional evidence.
outside of the webs of interdependent relationships which have shaped her present circumstances and contribute to her self-understanding.”

The importance of these interdependent relationships suggests it may not always be accurate to consider attempts to end prostitution as the most effective means of ending sex trafficking. In such circumstances, external “others” conceptualize a woman’s human right in a particular way, and her life is significantly affected in so far as she is subject to the anti-sex trafficking policies that are products of this conceptualization. In addition, and very importantly, global governance policies (including international law) and most domestic policies are designed with reference to a homogenous and autonomous (male) individual subject, and not subjects with multiple identities, far less for subjects with multiple identities from very diverse contexts. The uniform assumption of victimhood that is captured in existing anti-sex trafficking policies reflect this. Trafficked female migrants may be sex workers or not, but they may also be brides, mothers with children left behind, or young women trying to break with traditional familial expectations in search of better opportunities. Even as these subject positions vary, they must also be considered in conjunction with those relationships which give meaning to women’s identities. For example, the need to provide for one’s children and/or other family members may influence a trafficked woman’s decision to return to the sex trade even after having been trafficked and having returned to her original home.

I will illustrate the relational nature of these subject positions using the case studies of Kanti and Bhakti below. Kanti stayed on in the sex trade after initially being trafficked, while Bhakti was interviewed after having been recently rescued by an anti-prostitution NGO.

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28 Peach *Victims or Agents*, 108.

29 The case studies of Kanti and Bhakti will illustrate this in the following pages.

30 This is extremely common and shall be examined in much greater detail in Chapters Two and Three.
Kanti is from West Bengal and came from a very poor family of six children. Her father was a farmer. She attended school until the age of ten. At the age of seventeen, she migrated from her home in search of employment and thought that she would try to get a job as a nurses’ assistant or nanny (ayah). However, she was trafficked by a man whom she met in a train station in Kolkata. This man had promised to show her the way to Kolkata Medical College, but he took her to Sonagachi and sold her to a brothel.\footnote{Sonagachi is the main red light district in Kolkata.} When she realized what had happened, she told the madam that she did not want to do sex work, so the madam allowed her to do singing and dancing only. For the first year, she was not allowed to go anywhere alone. She was always accompanied by the madam or the madam’s daughter. However, she was allowed to keep her earnings. Kanti expressed mixed feelings about the first year. She explained that although she never went anywhere alone and felt that her freedom was restricted, she also felt that she stayed willingly because she did not think that she would be accepted back into her home village. However, over time, she developed a good relationship with the madam, to the extent that after the first year, the madam often accompanied her as a friend on trips to her home village and she would look after the madam’s belongings while the madam went off to visit other friends. She always returned to the brothel after her visits home, and she slowly started doing sex work also. She helped her family with her earnings from sex work.\footnote{She has never told her family about being trafficked or the fact that she is a sex worker.} After three years at the first brothel, Kanti decided not to try to pursue work as a nurses’ assistant or nanny because she would not have earned as much money and would not have been able to help her family. Therefore, she left that brothel and hired her own room to do sex work independently. She explained that she has no desire to leave the sex trade and that she regards all the sex workers in her life as her family.
Bhakti is from Nepal and her parents had died when she was very young. She lived with her grandparents and she never attended school. Her days were spent doing household work such as cleaning, cutting grass for their animals and collecting firewood. She felt that she no longer wanted to do this, so she ran away to Kathmandu and met a woman along the way. Bhakti asked this woman to take her to India. The woman told her about the possibility of doing sex work in Kolkata. Bhakti said that she decided to do it, and that she never felt forced. She stayed in Sonagachi for two years and then moved to a brothel in a different area of Kolkata. During her three years as a sex worker, she has visited her home in Nepal four times. She said that she was not asked if she wanted to be rescued and she did not want to go back home to Nepal. Bhakti explained that while her rescuers did not mistreat her in any way, she was not happy to be rescued. At the time of the interview, she said that she did not want to go back to sex work in India because she felt that she would be rescued again and the whole cycle would repeat itself. Therefore, she simply wanted to return to Nepal because she did not like being confined to the shelter home, although she does not want to go to her home village in Nepal. At the time of the interview, she described how she felt as though she had lost everything.

Both Kanti and Bhakti were trafficked according to conventionally accepted understandings of the process. Yet, beyond the fact that to be trafficked for sex is a violation of one’s human rights, an attempt to characterize the engagement of these women in prostitution as an ongoing violation of their human rights would be difficult. In the case of Kanti, her self-understanding evolved from trafficked woman to independent earner, and in the process she developed a network of relationships with which she began to identify herself.

33 It was from this brothel in Haldia that she was rescued.
34 She has never told her relatives that she does sex work.
35 Italics added.
and which, as Peach describes, “have contributed to her self-understandings”— as a daughter, sibling, and de facto relative of all the sex workers who are her friends. Bhakti’s story was very different. She did not stay in the sex trade as long as Kanti, but similar factors drove her initial decision to migrate. More importantly, she did not want to be rescued and does not perceive herself as having been trafficked. The fact that she felt as though she had lost everything suggests that the attempt to protect her human rights resulted in more harm than good. Overall, the cases of Kanti and Bhakti illustrate how ignoring the factors which figure in decision-making will result in inappropriate, ineffective or even harmful policy, and rights violations of the type that even abolitionist feminists ought to be concerned about. In the process of being trafficked, Kanti’s human rights to liberty and freedom of movement were violated. Yet, when she had the chance to leave, based on her own process of decision-making, she returned. Bhakti’s story is noteworthy in that there were no clear rights violations in the fact that she was told about the possibility of being a sex worker by a woman whom she asked to help her migrate. Yet, after having been rescued, her rights to liberty and freedom of movement were heavily circumscribed. Even being pressured to return to Nepal in order to escape the possibility of another rescue if she returned to the sex trade has a negative impact on her right to liberty and her right to choose her form of employment. The fact that during her time as a sex worker she provided for herself and visited her home in Nepal on several occasions, while subsequent to being rescued felt that she “had lost everything” is evidence of these violations.

What Peach’s observations and the narratives of Kanti and Bhakti draw out is that the focus on “the trafficked woman exclusively as an individual, to the exclusion of her social context, is insufficient to understanding her situation fully, and thus how best to address her

36 Peach Victims or Agents, 108.
needs and interests.”\textsuperscript{37} Needs may not necessarily be uniform across women and anti-sex trafficking policy ought not to be based simply on others’ assumptions. For example, as the critical moral ethnography in the next chapter shall demonstrate, the need to provide for children and the need to escape a violent relationship are separate but may also be related. An underlying need for autonomy can be inextricably linked to both.\textsuperscript{38} An appreciation of these factors requires much more contextual understanding than the existing application of human rights allows. It is in this regard that an ethic of care approach can be useful.

(ii) Individual vs. Relational

A rights-based approach and a care approach have fundamentally different ontological foundations. From the perspective of human rights thinking, there is an ontological assumption of ethical value residing in the individual human being, whereas the ethic of care that I employ here locates ethical value in relations between individuals rather than in individuals themselves or any characteristic therein. Care and interdependence are primary features of these relations between individuals.\textsuperscript{39} This goes one step beyond feminist rights thinking that requires the recognition of difference. Acknowledging and incorporating differences in human rights is certainly an important step in terms of getting women’s rights recognized as human rights. However, it may be insufficient in terms of translating the needs which arise from these rights into positive obligations in global governance. With a human

\textsuperscript{37} Peach \textit{Victims or Agents}, 105.

\textsuperscript{38} I will discuss my understanding and use of the term “needs” within the scope of my application of the ethic of care in the next chapter, situated within the context of the critical moral ethnography.

\textsuperscript{39} Hutchings \textit{Ethics, Feminism and International Affairs}, 205.
rights approach, responsibilities towards individuals tend to be limited to what is contained in the right itself. For example, saying that women have a right to not be sexually assaulted means that others cannot sexually assault any one particular woman. It does not address the background social conditions that define women as sexual victims or lay the responsibility on women to live lives of constant self-surveillance with limited freedom, or expose the power relationship underlying acts of sexual violence, and so on.

In applying an ethic of care to anti-sex trafficking governance policy, responsibilities towards trafficked women come from two sources. The first is in the relational ontology of care ethics. Using the values of care means that one implicitly acknowledges not only that humans need care, but that they exist in relationships with each other and have a responsibility to provide care. The second justification for responsibilities is inherent in the concept of global governance itself. The existence of global governance policy to address transnational problems that affect humans across sovereign state borders is itself an acknowledgment of an international responsibility to protect people. The UNTP is one example of this. In the previous chapter, global governance was defined as “mechanisms for steering social systems towards their goals.” What is the goal with regard to sex trafficking? I will use the case of Vidya to illustrate why the responsibility of the international community toward trafficked women should not rest on the question of the moral status of prostitution. It will also help to illustrate how a relational ontology can be useful in delineating an achievable conception of responsibility that can help stop sex trafficking and guide the provision of care at the national and international levels.

40 These relationships will be examined in much greater detail in the critical moral ethnography of Chapter Two.
41 Rosenau Towards an Ontology for Global Governance, 296.
Vidya is from Nepal, and she is the eldest of five children. She never attended school because her family was too poor. She was married, but her husband often beat her. During her marriage, she suffered a miscarriage because of the domestic abuse. She decided to migrate, and one of her relatives tricked her by telling her that she would be able to get a “good job” in Kolkata. Instead, she was taken to a brothel in Haldia, Kolkata. At the time, when she came to understand that she was expected to do sex work, she was not physically forced to begin doing so. However, she decided to do it because she had no money, food or clothes, so “it was necessary for my survival.”

She worked for one year in the brothel before being rescued. She said that she did not want to leave sex work, and during the rescue, she was not asked if she wanted to leave. At the time of the interview, she said that she did not feel unhappy in the shelter home, but she did not want to stay there. She said, “I am alone in the world.” She felt that her parents would not accept her back, and she had no feelings for her husband. Therefore, she wanted to return to Nepal, be independent, to work and look after herself.

Vidya was twenty-two years old at the time of the interview. In her comparatively short life thus far, she had experienced a range of human rights violations, including being trafficked for sex. Yet, her narrative is not suggestive of a victimized sex worker for whom it would be sufficient to simply remove from the sex trade. She had clear reasons for her decision to migrate, and after the rescue, she voiced a desire to “be independent.” However, these last two points become evident only when Vidya is regarded not only as a “youngish-looking trafficked prostitute” who should be rescued and repatriated back to Nepal, but as a woman within webs of relationships that had led her to make decisions that she felt were in

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42 Vidya, interview with author, West Bengal, October 2009.
43 Ibid.
44 I use this phrase to highlight the fact that Vidya was an adult at the time of the rescue, and yet she was still taken to the shelter home and was in the midst of the repatriation process.
her best interest. And very interestingly, these relationships were characterized by other forms of rights violations, such as domestic violence. However, the existing approach views her as a woman doing something that is taken to be a form of violence against her and therefore a violation of her human rights. Therefore, her rescue was necessary. While there certainly are women who are happy to be rescued by police and NGO officials, the fact that some are not points to further rights violations in the process, as both the cases of Bhakti and Vidya illustrate. Vidya was clearly trafficked, but like Bhakti, she had not wanted to be rescued. In the process of rescue, her rights to liberty, freedom of movement and choice of employment were violated. Thus, there is a need to re-think the design and implementation of anti-sex trafficking policy, particularly with regard to the responsibility to provide appropriate care for trafficked women that does not infringe upon their human rights.

Existing anti-sex trafficking policy reflects the view that prostitution is always a human rights violation and is a primary cause of sex trafficking. Given this view, the international community is regarded as having a responsibility to end prostitution in order to end its associated rights violations and end sex trafficking. On the other hand, the pro-sex work activists view the responsibility of the international community to trafficked women as necessitating the recognition of prostitution as a profession and a full application of labour rights and protections for sex workers. This, they argue, would help to prevent sex trafficking, as it would significantly decrease women’s vulnerability. The existing anti-trafficking “3P” strategy that is based on prosecution, protection, and prevention\(^{45}\) has ended neither prostitution nor sex trafficking, and has led to further rights violations of trafficked women (for example, through the use of raids as an anti-sex trafficking measure in which sex

\(^{45}\) This is the exact phrase that is used in anti-sex trafficking discourse. The strategy captures the philosophy underlying an approach that seeks to end prostitution in order to prevent sex trafficking.
workers are arbitrarily arrested and released after a fine is paid, even though prostitution is not illegal). Female migrants’ rights more generally are also subject to violation, as some of them are hindered in their attempts to migrate because they are assumed to be on the verge of being trafficked, without adequate evidence.\(^{46}\) The result has been an oppressive relationship between governance structures and trafficked women, based on a skewed conception of responsibility towards trafficked women which enables further rights violations. Vidya’s and Bhakti’s stories in particular illustrate how this relationship is not responsive to the realities of the lives of some trafficked women. Anti-sex trafficking policy will continue to use the language of rights, but it should also work to protect those for whom it is intended, rather than enable further rights violations. Therefore, how can anti-sex trafficking policy be designed such that it 1) recognizes, respects and protects all the human rights of all trafficked women and 2) empowers them while avoiding discriminatory responses?

In this context of heavy contestation, appeals to a shared commonality of being human or to the shared experiences of women (in the case of women’s rights) are insufficient to resolve the problem. It demands a greater degree of contextuality than is currently being employed and, in this regard, the application of an ethic of care would be of benefit. Furthermore, the nature of the issue demands a relational understanding of trafficked women and the social structure of the relationships of which they are a part (with family, employers, NGOs, and states), especially given the reality of multiple subject positions among trafficked women as migrants, mothers, caregivers, etc. The aim is still the protection of human rights; care ethics offers a framework for a clearer understanding of whose rights and which rights exactly are stake—answers which have not clearly emerged from policy or academic debates thus far but which are necessary to provide meaningful assistance to trafficked women.

\(^{46}\) I will discuss this issue of border patrols in detail in Chapter Three.
By virtue of its relational ontology, using the methodology of care ethics also draws attention to the issue of responsibility for trafficked women. There is both a responsibility to provide care and a responsibility to not further infringe upon their rights. Taking this approach can be much more effective than continuous debates over prostitution. Both the abolitionist and the pro-sex work advocates remain limited by their conceptualization of the problem of sex trafficking as being one which can be reduced to the question of whether prostitution is a violation of human rights. In so doing, neither can resolve the key governance of gender issue— that is, how gendered conceptions of prostitution and women’s sexuality negatively affect care for trafficked women. In short, as I argued in the Introduction, the content of the UNTP and the national laws of India and Nepal confirm that there is an internationally recognized responsibility towards trafficked women. However, the nature of that responsibility and the actions taken towards its fulfillment are contested and have resulted in ineffective policy. The use of a critical ethic of care can reveal how the moral judgments underlying this issue reflect a particular distribution of power, the concrete effects on trafficked women, and the ways in which anti-sex trafficking policy might be more responsive in providing care for trafficked women.

The results of the critical moral ethnography suggest that policy (and the rights which ought to be protected therein) should foster the value of autonomy, understood in a relational sense. This should be the key responsibility of the international community to trafficked women because it is the value that trafficked women clearly expressed as both a need and a goal. To return to the definition of global governance as “mechanisms for steering social systems towards their goals,” it is the direction in which this particular social system should be steered. I will justify my argument in Chapter Two by reference to the alternative epistemology, which is the most appropriate platform from which to justify policy— the
voices of trafficked women themselves. Vidya’s assertion that she needs “independence” is but one example among many of how this was articulated. It is not an argument about the moral status of prostitution. It is an argument regarding how the principal need of trafficked women for greater levels of autonomy over their lives is not being met, while at the same time leaving them more vulnerable to rights violations.

The delineation of this need enables the reconciliation of contextual responsiveness and abstract anti-sex trafficking policy. The subjects of this governance policy desire a universally-recognized value— autonomy— that would in turn enable them to more effectively respond to their own particular interests in their lives. Thus, it is a way in which women can become empowered without being subject to the further possibility of various forms of rights violations. Fostering autonomy, understood in a relational sense, is not incompatible with either the language of human rights or liberalism. It is also has the virtue of being amenable to the design of national and international anti-sex trafficking policies by empowering women to shape their own lives, rather than having others tell them what to do (with all the associated implications for the exercise of autonomy). It need not be concerned with the tiny details of each trafficked woman’s life. Furthermore, the exercise of rights cannot occur in the absence of a meaningful ability to exercise one’s autonomy. By helping to resolve the issues of which rights and whose rights (as described above), and by revealing the symbiotic relationship between trafficked women’s human rights and their need for autonomy as revealed by their narratives, the ethic of care can help to make clear the links between the fact of the responsibility of the international community towards trafficked women and what exactly the nature of that responsibility should be.
C. An Ethic of Care Analysis in India and Nepal

Several significant country reports on sex trafficking in India and Nepal point to the increasing gender-based vulnerability which women face. These include political instability and armed conflict; natural and man-made environmental crises; few educational and income-generating opportunities for women; the increasing “feminisation of migration” as women increasingly bear greater economic burdens; widowed, divorced or abandoned women in contexts where their legal rights are not satisfactorily established; and the search for improved living conditions via shadow economies. Given these factors, Sanghera argues that “the gendered nature of trafficking…derives from the historical presence of laws, policies, customs and practices that justify and promote the discriminatory treatment of women and girls and prevents the application of the entire range of human rights and constitutional laws to women and girls.”

These relationships lend themselves well to an ethic of care analysis—given the existence of anti-trafficking laws in both countries and the fact that they both claim to follow the guidelines laid down in the UNTP, the continued existence of sex trafficking points to some shortcoming in the current policy framework.

Indian and Nepali laws on sex trafficking consist of the Immoral Traffic Prevention Act (1956) and the Indian Penal Code (1860) in India, and the Human Trafficking and Transportation Control Act (2008) in Nepal. In addition to these laws, in 2002 the South Asian Association for Regional Cooperation (SAARC) formulated its own Convention on

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47 Jyoti Sanghera, Trafficking of Women and Children in South Asia: Taking Stock and Moving Ahead. A Broad Assessment of Anti-Trafficking Initiatives in Nepal, Bangladesh and India (Report prepared for UNICEF Regional Office South Asia and Save the Children Alliance South and Central Asia, 1999); Kapur and Sanghera An Assessment of Laws and Policies.
48 Sanghera Trafficking of Women and Children in South Asia, 8.
49 Hereafter “ITPA.”
50 Hereafter “Nepal Control Act.” This Act replaced the older Human Trafficking Control Act (1986).
Preventing and Combating Trafficking in Women and Children for Prostitution.\textsuperscript{51} Both India and Nepal are signatories to the SAARC Convention. India has signed the UNTP. Nepal is in the peculiar position of not having yet signed, but is actively using the Protocol for guidance (including acknowledging and quoting directly from it) in their national legislation.

(i) Nepal

The attention placed on sex trafficking has increased with the formation of a multi-party democracy in 1990, and more recently with the official ending of the long civil war and signing of peace accords between the government and Maoist rebels in 2006.\textsuperscript{52} While the country has not yet achieved an entrenched sense of peace, the atmosphere has enabled increased anti-trafficking activities and discourse, as well as the creation of new government legislation to address the problem. To this end, in addition to the newer Nepal Control Act (2008), the Government of Nepal has created a National Task Force on Trafficking, a National Rapporteur on Trafficking, and a Ministry of Women and Social Welfare to oversee anti-trafficking interventions.\textsuperscript{53} However, the Act does not depart from the dominant moral understandings of sex trafficking, and explicitly prohibits prostitution for two reasons—because it is regarded as immoral and because it is seen as the primary cause of sex trafficking. Thus, acts that are deemed to be acts of “Human Trafficking and Transportation”

\textsuperscript{51} Hereafter the “SAARC Convention.”
include “to sell or buy a person for any purpose,” “to force someone into prostitution, with or without financial benefit,” and “to engage in prostitution.” Furthermore, the Act allows for “the concerned public prosecutor” to “claim the accused to have committed an offence against morality.”

The pitfalls of the Nepali anti-sex trafficking laws can only be appreciated by understanding the context in which both female migration and sex trafficking take place. The problem of sex trafficking stems from the desire by many women to migrate in search of better economic opportunities. It is an undeveloped country, and 90% of its population rely on subsistence agriculture. The factors increasing gendered vulnerability are made even more acute among women from marginalized groups and castes, and the literacy rate among all females is approximately 42.49%. In addition, despite the fact that in theory the Nepali Constitution provides for gender equality, discriminatory laws persist and women are “denied legal personality as independent individuals.” This includes the inability of a woman to inherit paternal property unless she is over thirty-five years and unmarried, and while men are legally bound to look after sons and wives, there are no legal specifications for the care of daughters. Furthermore, if a man remarries without formally divorcing his first wife, the first marriage is not automatically terminated and the wife has to apply for divorce. There are also certain circumstances in which the male does not need to seek a divorce at all, including if the first wife contracts an incurable sexually transmitted disease or becomes

55 Sanghera Trafficking of Women and Children in South Asia, 9.
56 Forum for Women, Law and Development, A Study on Discriminatory Laws Against Women, Dalit, Ethnic Community, Religious Minorities and Persons with Disabilities (Forum for Women, Law and Development, 2009), 20. The corresponding statistic for men is 65.08%.
58 Kapur and Sanghera An Assessment of Laws and Policies, 12.
certifiably insane.\textsuperscript{59} This reality was also confirmed in my interview data.\textsuperscript{60} Given these circumstances, migration is an important avenue of opportunity for women facing lives defined by a low status (both culturally and legally),\textsuperscript{61} poverty, and deteriorating economic situations. Studies have also indicated that female migration is higher among poorer households,\textsuperscript{62} and illiterate women are much more vulnerable.\textsuperscript{63}

(ii) India

In India, there is almost universal consensus that poverty is the driving force behind intra-state and inter-state trafficking.\textsuperscript{64} Unlike Nepal, conflict is not a pertinent factor, but the “gender vulnerability” also exists. Most female migrants move from rural to urban areas because they generally have limited education and income-generating opportunities. These are often exacerbated by personal crises such as abandonment by their spouses, insufficient familial support for reasons such as the death of their fathers,\textsuperscript{65} and very limited household incomes.\textsuperscript{66} Primary education is mandatory for all Indian children according to Indian law.

\textsuperscript{59} Forum for Women, Law and Development \textit{A Study on Discriminatory Laws}, 29. There are no such corresponding provisions for women.

\textsuperscript{60} In particular, I interviewed five women whose husbands did 2\textsuperscript{nd} and 3\textsuperscript{rd} marriages without a formal divorce, in effect leaving them abandoned. I also received anecdotal evidence from several interviewees that many women who joined the sex trade in Kathmandu did so after their husbands performed 2\textsuperscript{nd} marriages. One of these informants was Avantika. She is now a brothel owner and I consider her to be a reliable source as she would have contact with many sex workers and intimate knowledge of their lives.

\textsuperscript{61} This begins from a young age as girls are viewed as being of little value to the family. Forum for Women, Law and Development, \textit{A Study of Discriminatory Laws}, 21.


\textsuperscript{63} “Executive Summary,” in \textit{Status and Dimensions of Trafficking Within the Nepalese Context} (Institute for Integrated Development Studies and UNIFEM, 2004)

\textsuperscript{64} This emerged from government reports, academic literature and field interviews with elites connected with anti-sex trafficking efforts.

\textsuperscript{65} Fathers/husbands are generally the principal, if not the sole, income earners in rural areas.

\textsuperscript{66} Sanghera \textit{Trafficking of Women and Children in South Asia}, 7; Government of India, \textit{Trafficking of Women and Children in India} (Government of India 2004), no page number available. This also emerged from my own interview data. Many women described being married off at an early age and later being thrown out or abandoned by their husbands. A few migrated in search of employment after their fathers had died.
However, the national female literacy rate is 53.7%, while the corresponding statistic for males is 75.3%.\textsuperscript{67} The Government of India’s 2001 Census indicated a total of 314 541 350 self-identified migrants based on place of last residence, out of whom there were 221 179 541 women.\textsuperscript{68}

Given the high level of female migration, concerns and emotions regarding sex trafficking tend to be elevated. The Indian Penal Code contains a number of provisions relating to kidnapping, forced labour (including sexual labour) and the movement of females under the age of twenty-one. However, only the ITPA deals exclusively with trafficking. It is noteworthy that although the Act is called the “Immoral Traffic Prevention Act” it only addresses sex trafficking. Taken together with its title, one might deduce that sex trafficking is the only visible, or perhaps the most “immoral,” form of trafficking in India. Offences under this Act include: keeping a brothel; living off the earnings of prostitution; using persons for prostitution, detaining persons in premises in which there is prostitution or engaging in prostitution within the vicinity of public places; and “seducing or soliciting” for the purpose of prostitution.\textsuperscript{69}

The ITPA is an archaic piece of legislation, and recent attempts to amend it have been met with a furious debate that ultimately led to its failure to be passed by the Indian Parliament. The chief reason for this was the proposal to criminalize the clients of sex workers, in the belief that this would reduce the demand for sexual services and, by extension, trafficked women. The Amendment was widely supported by many Indian and


\textsuperscript{69} Centre for Feminist Legal Research Centre for Feminist Legal Research, \textit{Trafficking Reform: An Analysis of the Protection of the Rights of Positive People, Children, and Sex Workers} (New Delhi: Centre for Feminist Research, 2006), 5.
international anti-prostitution NGOs, and vigorously opposed by pro-sex work organizations, particularly those which represent sex workers and lobby for sex workers’ rights. The latter argued that this would drive sex work further underground, reduce sex workers’ ability to negotiate with clients and insist on safe sexual practices, and increase sex workers’ vulnerability. Even though neither the ITPA nor the proposed amendments directly targeted sex workers, the net effect was the opposite.

(iii) SAARC

The name of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution speaks for itself. It unapologetically fuses prostitution and sex trafficking, and treats women and children as similar categories. Thus, Article One of the Convention defines prostitution as “the sexual exploitation or abuse of persons for commercial purposes” and trafficking as the “moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking.” As a piece of regional legislation, its direction is misguided and does little to empower trafficked women. Instead, it infantilizes them and, as with the ITPA, it ignores all other forms of trafficking.

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70 These include DMSC in Kolkata and Sangram in Sangli.
71 SAARC Convention, 1.
Neither the Indian nor Nepali national laws criminalize or decriminalize prostitution but, as I demonstrated in the previous chapter, in practice it is treated as a criminal offence in both states.\textsuperscript{72} The criminalization of prostitution does little to address the harms inherent in sex trafficking. In addition, women face other forms of violations apart from being potentially trafficked for sex in the process of migration.\textsuperscript{73} However, both national policies, the regional policy and their international partner the UNTP, fail to acknowledge women’s right to migrate, the right of sex workers who had been trafficked for sex to protection, or even the underlying patriarchal structures which act as enabling conditions for sex trafficking from Nepal to India and within each country. Rather, a great deal of emphasis is placed on the relationship between prostitution and understandings of public morality. They are reflections of the dichotomies that render these policies and their associated practices harmful to trafficked women, resulting in violations of the latter’s autonomy.

In her argument for the reasons why public policy would benefit from the insight of an ethic of care, Tronto points out how certain “moral boundaries” have become entrenched in states and serve to obscure many of the issues of power and inequality with which feminists are concerned. These are the publicly perceived boundary between morality and politics; the “moral point of view” boundary that specifies moral judgments based on the requirements of reason; and finally, the boundary between public and private life.\textsuperscript{74} According to Tronto, these boundaries serve to attach the ideas of care to “women’s morality” and a private sphere feminine ethics which renders it much less likely to carry political sway, as opposed to an

\textsuperscript{72} I will continue to provide further evidence for this claim in Chapter Two and in more detail in Chapter Three.

\textsuperscript{73} These relate to gender-based discrimination such as difficulties in obtaining official forms of identification without a husband or being turned back at the border in the absence of a male relative.

\textsuperscript{74} Joan Tronto, \textit{Moral Boundaries: A Political Argument for an Ethic of Care} (New York: Routledge, 1993), 6-9.
ethical approach that is informed by feminist values and politics. These three boundaries are evident in both the nature of the problem of sex trafficking and the responses to it in Nepal and India. Thus, morality is in fact heavily infused in politics, moral judgments are based on a particular understanding of prostitution that is assumed to be universally valid and applicable to the problem of sex trafficking, and the movement of women within and across boundaries has meant that the personal has truly become “the international.” As a preliminary observation, the application of such an approach does not meet the requirements of an ethic of care—the overall values of care are absent. There is, rather, a lack of consideration of the needs of trafficked women and a ceding of responsibility for and criminalization of sex workers. This kind of approach is not informed by the experiences of trafficked women, but rather might be viewed as a product of a patriarchal system in which women’s bodies are rigidly controlled in various ways (whether as products to be sold or as persons whose honour and dignity must be preserved from the evils of prostitution).

Moral judgments will arguably always be embedded in politics. If this was not the case, then even a discussion of human rights and an ethic of care would be moot. While keeping this in mind, the nature of the issue of sex trafficking and its close association with female migration means that the private/public dichotomy to which feminists so strenuously object must be deconstructed. However, the key issue at stake is not whether moral judgments should be embedded in politics, but rather whose judgments, to whom do they apply and with what effect? The relational ontology of an ethic of care requires an

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75 It should be noted that some feminist ethicists do treat the ethic of care as a specifically female attribute e.g., Nel Noddings, Caring: A Feminine Approach to Ethics and Moral Education (Berkeley: University of California Press, 1984); and Ruddick Maternal Thinking. This arguably serves to reinforce the moral boundaries which Tronto identifies with the marginalization of feminist ethics in general. I wish to steer clear of such essentialism, and note that although care ethics have been derived from practices which are traditionally associated with women, there is nothing inherent in the ethic of care that prevents it from being applied more generally by men and women.

engagement with the interpersonal, social, political and economic circumstances which comprise the relational context in which sex trafficking takes place. This must be done in order to justify any policy and define the responsibilities to trafficked women, based on a foundation of care. The means for doing so are captured in Hankivsky’s principles of contextual sensitivity, responsiveness and the consequences of choice. These are meant to work together to produce change that is in keeping with feminist politics and values. The methodology of the ethic of care must be geared towards applying these three ethical processes in order to answer my research question of whether and how the ethic of care can form the basis of more effective sex trafficking policy.

Both contextual sensitivity and responsiveness are meant to highlight human differences via engagement within the relational contexts in which care is needed. Thus, the ethic of care does not stand on the outside to provide a judgment of right or wrong. Rather, when the responsibility to care has been identified, it works immanently to derive moral knowledge from human beings themselves, presenting them with the opportunity “to articulate who they are, what their experiences have been, what they need, and how those needs may best be met.” Thus, knowledge of values (including human rights) would come from a different source when these are contextually located— it should originate from the lived experiences of trafficked women, as well as workers in the sex industry who may be more vulnerable to being trafficked, rather than simply emanating from the moral positions of states or NGOs. This is the means by which an effective policy foundation can be established— an interpersonal approach to analysis and judgment requires that this must be justified by reference to those whom policy affects the most.

78 Ibid.,102.
Contextuality and responsiveness would require political commitment, but they are not unattainable. At the moment, the end result of anti-sex trafficking policy can be traced back to different layers at the international level (states and activists) and the national level (law enforcement and NGOs that are engaged in the day-to-day practical business of trying to prevent sex trafficking and providing care for trafficked women). Local judgments and practices collectively feed into international instruments and vice-versa, as my discussion of the creation of the UNTP demonstrates. These various layers can also be harnessed in a different sense—to conscientiously employ the alternative epistemology before preemptively deciding what is best for all trafficked women. The creation of, and support for, spaces in which trafficked women can express themselves and provide their own knowledge that can, in turn, inform policy would also be of great value, for example, in collectives for women who choose to remain in the sex trade or for women who migrated abroad and were trafficked. I will discuss in detail in Chapter Three how these “communities of judgment” might fulfill such a role. Furthermore, the critical moral ethnography will demonstrate how this knowledge can be sifted through with relative ease to reveal an achievable policy goal—anti-sex trafficking policy that fosters trafficked women’s autonomy, which may be much more effective in reducing sex trafficking than attempts to end prostitution.

The “consequences of choice” refers to the continuing requirements of relationships of responsibility and accountability—to direct anti-sex trafficking policy towards the goal of changing the support structures of patriarchy such as those which limit women’s educational and economic opportunities and practices such as forced marriage. It should also address both the immediate and longer-term suffering of trafficked women to whom the international community is accountable. In both India and Nepal, this would necessitate a critical examination of laws and customs that discriminate against women and are clearly antithetical
to care principles. By subjecting these Nepali laws, the relevant India laws,\textsuperscript{79} the South Asian Association for Regional Cooperation’s Convention on Preventing and Combating Trafficking in Women and Children for Prostitution,\textsuperscript{80} and the UNTP to an ethical analysis, and relating it to the information given by female migrants who were themselves trafficked, I will develop a comprehensive picture of, and articulate how, the needs of trafficked women may best be met. Given the existence of the need for increased levels of autonomy, I will suggest what type of governance policy may best facilitate this. In so doing, the aim is to demonstrate how the international community might move towards a completely different kind of ethical analysis in terms of approaches to global governance in IR.

Some care theorists, such as Tronto, attempt to show how the ethic of care can and ought to be incorporated into the existing structures of the liberal, democratic state. Tronto’s justification for doing so is her assertion that care is not simply a \textit{moral theory}, it is also both a \textit{political idea} and a \textit{practice}. Moral boundaries need to be broken, but “care is only viable as a political ideal in the context of liberal, pluralistic, democratic institutions.”\textsuperscript{81} She does not try to overturn the existing order but rather to illuminate parts of it that have been traditionally ignored and grossly undervalued. In so doing, care is not treated simply as a moral value that informs politics but as a political practice that changes how these institutions work. According to Tronto, because “the practice of care is also a political idea,” there is not the problem of “trying to import a moral concept into a political order.”\textsuperscript{82} This can be easily appreciated with regard to anti-sex trafficking governance policy which claims a mandate to provide protection for trafficked women. However, others may perceive the application of an

\textsuperscript{79} This includes the “Immoral Traffic Prevention Amendment Bill” 2006 which is now due for Cabinet approval. Due to continued objections, it has yet to be approved in committee.
\textsuperscript{80} Both Nepal and India are signatories to this regional convention.
\textsuperscript{81} Tronto \textit{Moral Boundaries}, 158.
\textsuperscript{82} Ibid., 161.
ethic of care precisely as an attempt to import a moral concept into a political order. This perception may in turn be interpreted as a challenge to the widely accepted notion of the *neutrality* of the liberal state.\(^{83}\) I think that ultimately, this is Tronto’s intention. Changing public institutions so that their practices are in keeping with an ethic of care does require an acknowledgement that such practices are not neutral, even if she wants the essence of liberal democratic institutions to remain intact. Even in the realm of what is traditionally considered to be “the private,” care is not neutral. For example, in many households around the world, the nature and quality of care that boys and girls receive often differ. Can it then be possible to apply care at the national level and international level? In my argument, I think that it is realistically possible to apply care without descending into an attack on the concept of state neutrality. With regard to the issue of sex trafficking, the methodology of the ethic of care has actually revealed how a key *liberal* value is being violated. The protection and fostering of this value are activities with which states ought to be concerned, and does not challenge the issue of state neutrality as conceived in liberal political theory.

Should or could the ethic of care be a public value in this context? The ethicist should carefully discern between the ideal and the realistically possible in this regard. Realistically, this may be viewed as objectionable by those in academic and policy circles who support the concept of state neutrality, and I have argued that the latter need not be contested. How then might the benefits of care be harnessed to design more effective policy? Hutchings points out how one of the key strengths of the relational ontology of feminist ethics is its grounding in the world as it is rather than what ought to be the case.\(^{84}\) Given the existence of anti-sex trafficking policies that aims to stop/prevent sex trafficking and protect trafficked women,

\(^{83}\) I am grateful to Prof. Jennifer Nedelsky for helping me to see how the ethic of care might be perceived as posing such a challenge.

\(^{84}\) Hutchings *Towards a Feminist International Ethic*, 123.
and given the fact that these policies currently does not achieve either of these goals, a realistic goal may be to recognize care as an important ethical and political practice that can influence anti-sex trafficking policy without having to become a public value. It is necessary to recognize care as a societal value, given that it is an essential practice in any society. To not acknowledge this fact would be tantamount to reinforcing the three moral boundaries to which Tronto so strenuously, and correctly, objects— particularly the boundary between private and public life. However, as a practice, it can help to close the gap in the three moral boundaries without necessarily requiring the status of a public value or becoming overtly associated with the dangers of challenging state neutrality. Instead, the ethic of care can be applied to policy in a way that complements other societal values and the institution of human rights. The key difference lies in the methodology. The relational ontology of the ethic of care does not simply recognize how moral reality is marked by relationships and practices of responsibility. Rather, it goes further in claiming that “such reality is constructed not given, and that gendered relations of power form a significant part of it.”85 In this understanding, persons, feelings, ideas, experiences and practices that might have previously been thought to carry no ethical significance can be revealed and analyzed to understand their importance. Therefore, an approach to the formulation of anti-sex trafficking policy that is guided by the practices of care would begin with the gathering of interpersonal knowledge from trafficked women themselves. Like human rights, societal values are highly contested. For example, one interpretation of the value of “dignity” might be that to engage in prostitution always results in the loss of one’s dignity. The relevance of this to anti-sex trafficking policy is, at best, debatable. Yet it figures prominently in policy at all levels. An

85 Ibid., 123.
The ethic of care can help with this contestation by appealing to the subjects for whom these values are purportedly being protected.

The application of an ethic of care can help to change the focus from illegal migrants and sex work to consideration of the reasons why women migrate, the structures which prevent them from doing so safely, and how change can best be accomplished with a view towards enabling them to exercise greater control over their own lives. The treatment of women as human beings with agency who stand in a relationship with the global anti-sex trafficking regime of which they are a part also involves respect for the decisions they make and a clear understanding of the factors which led to their being trafficked—issues which are almost always ignored in the formulation of policy. This would help to ensure that some women’s experiences are not essentialized, subsumed within a generalized anti-prostitution framework, or separated from the enabling conditions which subordinate and devalue them as women. It would also include the benefits of a human rights approach—respecting rights can be justified by reference to the contextual relationships in which the abuse takes place, and more importantly, these rights can then be linked to the responsibilities inherent in our relationships to these rights holders.

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86 As I shall explain in Chapter Two, women sometimes run away from shelter homes, and it occurred even during the midst of my own fieldwork. This type of reaction to a violation of autonomy indicates the need for such change.
D. Relational Autonomy and the Ethic of Care

In spite of its grounded methodology, the ethic of care can seem quite distantly located in the realm of metaphysics. Indeed, many feminist analyses of the ethic of care to date have been largely theoretical and there is a paucity of applied work, both within the discipline of Philosophy and in wider applications in other disciplines such as Political Science. My research question attempts to bring the theory, the world as it is, and a normative solution together— the ethic of care can be employed to design more effective anti-sex trafficking policy. However, the critical moral ethnography which shall be the basis of the methodology of this project only partly fulfills this goal. Trafficked female migrants were interviewed in order to gather the moral knowledge that is pertinent to their lives and the ways in which policy fails and/or can be more helpful. That is, the political contexts of moral arguments regarding the best approach to dealing with sex trafficking was uncovered. The next step is to consider what kind of bridge is needed between this moral knowledge and actual outcomes in anti-sex trafficking policy. In other words, the road map might look as such:

ethic of care → interpersonal moral knowledge → anti-sex trafficking governance policy

The arrow between the alternative epistemology and policy represents the application of care principles. It is indeed the case that life histories are complex and varied. However, in this project they contain many common threads that can be woven together to clearly illuminate the value that is at stake. Based on the critical moral ethnography as described by trafficked women, this value is the need for autonomy. In the context of both the ethic of care and female migration in Nepal and India, this autonomy must be understood as relational.

Just as there is no single feminist approach to ethics, there is no single feminist approach to relational autonomy. In addition, it is important to note that relational approaches to autonomy are not confined to feminist scholarship, although I shall mostly
draw on this body of work. Mackenzie and Stoljar define the common foundation of feminist approaches to relational autonomy as the premise that “persons are socially embedded and that agents’ identities are formed within the context of social relationships and shaped by a complex of intersecting social determinants such as race, class, gender and ethnicity. Thus, the focus of relational approaches is to analyze the implications of the intersubjective and social dimensions of selfhood and identity for conceptions of individual autonomy and moral and political agency.”87

It is perhaps no coincidence that while feminist ethics arose in response to a critique of hyper-individualized approaches to moral decision-making, feminist reconceptualizations of autonomy arose in response to *individualistic conceptions of autonomy* (as opposed to the notion of *individual autonomy* itself). With autonomy understood in the classic liberal sense of self-determination or self-government, feminists have criticized the resulting ideal of the atomistic and individualized autonomous man who is similar to all other moral agents in his pursuit of substantive independence over all other values and social practices that suggest an element of interdependency with others.88 The concept of individual autonomy, and women’s autonomy in particular, is obviously one that is important to feminist politics. Introducing a relational component to autonomy acknowledges what is for feminists the self-evident fact that humans are dependent on others, have others who are dependent on them, and are continuously engaged in relationships with others. Thus, autonomy needs to be thought of as “a characteristic of agents who are emotional, embodied, desiring, creative, and feeling, as well as rational, creatures.”89 While the autonomous agent may act (or ideally

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88 Ibid.
89 Ibid., 21.
ought to be able to act) in accordance with her own choices, values and identity, she does so from within webs of relationships that are also constitutive, but not determinative, of who she is.90

Given the natural affinities between the two scholarly projects, the absence of a more substantial body of work that situates the place of relational autonomy within an ethic of care is rather surprising. A hyper-individualized conception of autonomy that ignores relations of connection and dependence (whatever the direction) clearly goes against the grain of the ethic of care. The main concern of the ethic of care is relationships of recognition and responsibility, but it also seems to be very important to consider the abilities of moral agents to fulfill the conditions of these relationships, whatever the context. The next logical step is to carefully examine the conditions of, and possibilities for, the autonomy of the moral agents in question. In this project, there are two principal sets of moral agents— the “international community” (including all those who make policy and are involved in its implementation)91 and trafficked women. The voluntary/forced dichotomy and the universalization of assumptions regarding women’s human rights as these assumptions relate to prostitution heavily circumscribe the possibilities for trafficked women’s exercise of autonomy and even other migrants who may be completely unrelated to the sex industry.92 Furthermore, as I pointed out earlier, this approach and indeed many feminist analyses suffer from the flaw of considering the trafficked woman as the only relevant unit of analysis. Even accepting the simplistic and generic catch-all reason of “poverty” as the cause of sex trafficking implies a context comprised of various relationships and circumstances which shape the social

90 Nedelsky Law’s Relations, 31.
91 I also include here all the members of the anti-sex trafficking industry— pro and anti-prostitution organizations alike.
92 One example of the way in which this might happen is through the use of NGO “border guards” who stop female migrants and often prevent them from crossing the border from Nepal to India. I shall explore this issue and other anti-migration effects of anti-sex trafficking policy in more detail in Chapter Three.
constitution of trafficked women. Ignoring these factors means that the responsibilities of the international community to trafficked women are not fulfilled, and trafficked women are hindered in their attempts to fulfill their own responsibilities to themselves and to others for whom they care.

Mackenzie and Stoljar critique care ethics in terms of what they argue are its limited possibilities for reconceptualizing autonomy in line with feminist goals. This limitation stems from what they perceive to be care ethicists’ focus on “intimate dyadic relations, particularly between mother and child” while failing to “address the complex effects of oppression on agents’ capacities for autonomy” and providing a “somewhat limited reconceptualization of the social dimensions of agency and selfhood.” This echoes the critique of the ethic of care as being conceptualized as a specifically female attribute. It is the case that some ethicists do proceed from this assumption. Noddings is exemplary of this position, stating that women’s approach to moral problems is “founded in caring.” However, the majority of care ethicists depart from this point. For example, Tronto quite emphatically distinguishes between a feminine and a feminist account of caring. In this understanding (which is the one that I shall follow), the feminist approach to caring makes a valuable contribution by “broadening our understanding of what caring for others means, both in terms of the moral questions it raises and in terms of the need to restructure broader social and political institutions if caring for others is to be made a more central part of the everyday lives of everyone in society.” We cannot hope to apply a “female approach” to moral problems to international policy. If this was the intention, then the ethic of care would

93 Mackenzie and Stoljar Autonomy Reconfigured, 10.
94 Noddings Caring, 23.
fail as a normative guide for conduct. Instead, it would only serve to reinforce the three boundaries which Tronto describes.

There is no analytical reason to limit care ethics to intimate dyadic relations, and my dissertation is an attempt to make a wider application. I do agree that in neglecting to consider the importance of autonomy in relation to the ethic of care, the two failures identified by Mackenzie and Stoljar hold true. The critique might be stated another way—what should be the goal of caring relations? This failure may stem at least in part from the very limited application of care ethics to “real world circumstances,” despite its practitioners’ exhortations for contextual understanding. It is striking that engaging with both relational autonomy and care ethics involves essentially the same methodology—in line with the ethic of care’s requirements for moral judgments, analysis of “the characteristics and capacities of the self cannot be adequately undertaken without attention to the rich and complex social and historical contexts in which agents are embedded.”96 In other words, I would argue, a critical moral ethnography. In this project, it highlights the complex effects of oppression on agents’ capacities for autonomy, reveals the need for reconceptualizing their agency and selfhood (as specified by interviewees’ descriptions of their own needs), and provides the direction for how to enable such reconceptualizations in governance policy.

In a nutshell if, according to relational autonomy theorists,97 social relationships and practices are important ingredients in the process of fostering capacities for self-government, then I would argue that the form and content of those relationships and practices are crucial. And this form and content would be much improved if they are in line with the principles of

96 Mackenzie and Stoljar Autonomy Reconfigured, 21.
care. In particular, in this case it means fostering the autonomy of those women at the center of these social relationships and practices. Relational autonomy not only helps to give form to the ethic of care, but it also helps to incorporate the essence of human rights. Porter explains that the moral norms of care ethics require confirmation of “not only your humanity (what I share with you) but your individuality (how you differ from me).”98 The goal of care and anti-sex trafficking governance policy therefore becomes the same as the pre-eminent liberal value— that is, respect for autonomy. However, current approaches do not achieve this, perhaps because the means for doing so are misguided. In practical terms, a care approach should acknowledge both the humanity of trafficked women and their own self-understandings, as opposed to others’ understandings of what is best for them. Employing the alternative epistemology, and respecting and fostering autonomy become the tools of caring.

The next chapter will engage in a critical moral ethnography. The aim of the critical moral ethnography is to uncover the moral knowledge that forms the content of the alternative epistemology on which the ethic of care is based. Having done this, I will engage in a detailed analysis of the context of sex trafficking in Nepal and India in order to apply the concepts outlined in the theoretical discussion of this chapter. In particular, I will demonstrate the empirical basis on which I make the claim that an ethic of care can form the basis of more effective sex trafficking policy, and how this can be accomplished in relational terms. Chapter Three will outline what this policy might look like at the national and international levels. In other words, how can anti-sex trafficking policy structure caring

98 Porter Feminist Perspectives on Ethics, 14-15 (original italics).
relations such that it fosters the value of autonomy for trafficked women? These questions shall be considered in detail in Chapters Two and Three.
Chapter Two

Critical Moral Ethnography: Connecting Needs to Policy

Employing an ethic of care to the problem of sex trafficking requires a shift in attention from debates among elites at the international level. If policy is to reflect a greater degree of attentiveness and responsiveness to the subjects of governance policy, then the subjects of governance policy should be allowed to speak and must also be heard. In this chapter, I will undertake a critical moral ethnography of various dimensions of sex trafficking with reference to my case studies—internal sex trafficking in India, internal trafficking (including sex trafficking)\(^1\) in Nepal, sex trafficking from Kathmandu to Kolkata, and trafficking (including sex trafficking)\(^2\) from Nepal to various parts of the Middle East. The objective of this ethnography is to engage the essence of the ethic of care— the alternative epistemology—in order to learn about the experiences of trafficked women, understand their needs for their lives as they understand those needs, and to consider whether anti-sex trafficking policies at the national and international levels meet those needs.

Based on the moral knowledge gained from my primary data, I argue that applying the practice of care in the context of anti-sex trafficking policy should take the form of enabling

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\(^1\) I describe this as such because I conducted a few interviews with women who were trafficked into the “restaurant industry” in Kathmandu. Although they were not forced to engage in sex work, I included these interviews because they were subject to similar initial uncertainty about their working conditions, sexual harassment in the workplace (especially in dance bars) and societal discrimination. I will elaborate on this (including exactly what is meant by the “restaurant industry”) later in the chapter.

\(^2\) I conducted interviews with some women who went to the Middle East but were not trafficked for sex. I included these interviews because all of the women had no initial idea when they left home what kind of job they were going to. They ended up doing domestic labour under extremely harsh circumstances. They were almost all subject to economic exploitation and physical abuse; two experienced sexual abuse. Many suffered severe psychological trauma as a result of their experiences. I will elaborate on this later in the chapter.
the autonomy of trafficked women and that this goal is the key responsibility that should be embedded in policies at all levels. I will define autonomy, outline the relational form that I believe it takes and situate the concept within the moral framework of the ethic of care. In the second half of the chapter, I will use my primary data to substantiate the theoretical claim that more effective policy would foster trafficked women’s autonomy, in the light of the evidence from the critical moral ethnography. The rest of this chapter will focus on the ethical analysis, and the next chapter will examine how one might turn moral theory into practical anti-sex trafficking governance action that fosters the autonomy of those whom it is intended to protect, including a careful consideration of what this might look like in practice.

Arguments for contextuality in ethics demand some work on the part of the researcher. To apply my argument, I conducted a moral analysis of the dynamics of sex trafficking from Nepal and various Indian states into West Bengal, India; from various districts in Nepal to Kathmandu; and from various districts in Nepal to the Middle East (usually via India). As with most other parts of the world, in South Asia the close association of the movement of women with sex trafficking and the general moral stance against prostitution has resulted in a shared moral understanding marked by the conflation of sex trafficking with prostitution and women’s migration. Many activists and academics claim that numerous women and girls are trafficked across the border from Nepal, ending up in brothels in Indian cities as far apart as Kolkata and Mumbai. However, any work on sex trafficking, both in South Asia and more widely, must acknowledge the vast uncertainties associated with the process. The illegal and clandestine nature of the sex industry makes the gathering of empirical data very difficult and
the varying subject positions of trafficked women blur the lines further. There is also some suspicion among activists that some of the larger estimates of the magnitude of the problem might reflect those actors and organizations with anti-prostitution and “prostitution = sex trafficking” moral stances.³ For both India and Nepal, statistics are based on estimates, speculations, reports without sound bases, or extrapolations based on samples. They also tend to be outdated.⁴ Thus, although many reports suggest that the open border between India and Nepal facilitates the trafficking of “thousands of Nepali girls” for sex work (5000 to 7000 annually is the most popular estimate), the “variations and inconsistencies in data collection make it impossible to derive trends with any accuracy.”⁵ For example, the 2001 Nepali Census data shows that 82,712 women are absent from households (10.6% of total absentees—male and female). Out of this, 33,620 women (40.6% of female absentees) are absent without any known reason.⁶ While these figures are suggestive, they do not confirm trafficking. Women may have simply left,⁷ and some who left with a “known cause” such as employment or marriage may have actually been trafficked. My data demonstrates that at least some women are trafficked for sex or some form of coerced prostitution and that

³ Kamala Kempadoo University of Toronto public lecture, 2008. Kempadoo made these remarks at a workshop on sex trafficking at the University of Toronto with reference to the statistics released by the US Department of State in their “Trafficking in Persons Report.” Many estimates such as those given by the ILO and the U.S. Department of State have been criticized by NGOs (particularly sex workers’ rights organizations) as being very high and unsupported.

⁴ IIDS and UNIFEM Status and Dimensions of Trafficking in Women, Executive Summary (no page number).

⁵ A.K.M. Masud Ali, “Treading Along a Treacherous Trail: Research on Trafficking in Persons in South Asia,” International Migration 43:1-2 (2005), 145-146. Sanghera also argues that many statements about sex trafficking are “not based on any rigorous research of the sex industry in South Asia but emerges primarily out of anecdotal evidence and tentative observation.” Sanghera Trafficking of Women and Children in South Asia, 6. I was also told by law enforcement personnel in Kolkata that there is no way to tell how many people are trafficked.

⁶ IIDS and UNIFEM Status and Dimensions of Trafficking in Women, Executive Summary (no page number).

⁷ In my own research, several interviewees indicated that they decided one day to leave their homes without telling anyone.
regardless of disputes regarding the scale, the fact that sex trafficking does exist is empirically verifiable.\textsuperscript{8}

A. Towards a New Understanding of Sex Trafficking

A myriad of problems has arisen as a result of a particular interpretation of sex work and its relationship with sex trafficking. I have argued that the vagueness of the current UNTP definition, and the phrases “sexual exploitation” and the “exploitation of the prostitution of others” reflect the dominant moral stance of governments and abolitionist activists against prostitution and the equation of prostitution with sex trafficking.\textsuperscript{9} An analysis of the debates and the literature, taken together with the results of the critical moral ethnography, demonstrate that sex trafficking is a complex process that is certainly related to prostitution, but prostitution cannot simply be labelled as the sole causal variable with regard to sex trafficking. Similarly, “trafficked women” cannot be treated as a uniform group.

Trafficking in general and sex trafficking in particular, include three key components: 1) movement of a person; 2) the element of deceit or coercion; and 3) into a situation of forced labour, servitude or slavery-like practices.\textsuperscript{10} It is entirely possible for women (and men) to consent to exploitative working conditions. However, it is different if the person in

\textsuperscript{8} I can base this assertion on the fact that numerous Nepali and Indian government reports, statistics on sex trafficking and cases brought against traffickers are available, in addition to my own primary interviews with trafficked women.


question was deceived and/or coerced in any way. I have used these benchmarks in my own
determination of who was and was not trafficked among my interviewees. Thus, for
example, many of the domestic migrant workers who went from Nepal to the Middle East
were subject to very harsh working conditions but they were not deceived or coerced.
Therefore, I do not consider them to have been trafficked. Others were forced to perform
tasks beyond what they understood to be the requirements of their terms of employment, such
as being forced to have sex with male members of the household. I consider these women to
have been trafficked because of the coercion involved and also because they are prevented
from leaving the household, much less the country. I also consider cases of forced marriage
to be cases of trafficking, as both elements of deception and coercion are present.

There is also the variation of deception without coercion— women who were initially
tricked but were either told about sex work along the way or at the point of destination, but
then decided to remain without being forced to do so. I still consider these women to have
been trafficked, but I will subsequently argue that the policy response needs to take these
factors and the women’s exercise of autonomy (even within the context of having been
trafficked) into account. It becomes very important because in at least some cases, women
who are treated as having been trafficked and are rescued from brothels may not necessarily
have wanted to leave the sex trade and/or may not consider themselves as victims of
trafficking. Or, they might want to leave sex work, but given a choice between sex work and
being confined in a shelter home for the long duration of the legal process until they are
“released” may choose to remain as sex workers. The permutations are numerous. In
Chapter Three, I will return to this issue and consider how a definition of trafficking need not
rely on terms such as “sexual exploitation” or “prostitution” in order to be effective. The
critical moral ethnography below will use trafficked women’s narratives to flesh out and illustrate how the process of sex trafficking can be characterized by very significant variations.

B. An Alternative Epistemology

Gaining moral understanding of the problems surrounding sex trafficking necessitates attention, contextual appreciation and communication with trafficked women. This group also includes sex workers since many previously trafficked women remain in the sex trade and for all sex workers, anti-sex trafficking laws have a profound impact on their lives. In many cases, these may overlap. As the critical moral ethnography will demonstrate below, interviews with trafficked women reveal lives woven into far richer tapestries than simplistic victim/sex worker dichotomies or even poverty-induced migration suggest. My questions were designed to find out about the woman’s general background and the circumstances in which she was trafficked, how she left the sex trade (if applicable), what had happened to her since then (including her feelings about her choices in life and whether she faced any kinds of judgment from family and/or society), what she felt were her needs for her life, what she felt should be done to help women who are trafficked, and what plans or hopes she had for her future. Given the high number of interviews and variations in the life contexts of the

11 I will explore this in much more detail later in the chapter.
interviewees, I will analyze each country in turn and then synthesize the most important lessons from the ethnography in the subsequent subsection on “Needs” (B[iii]).

(i) India

Twenty-four interviewees were women who had been trafficked and subsequently chose to remain in the sex trade in Sonagachi, Kolkata. These women had been trafficked from other parts of India, Nepal and Bangladesh. The other ten were young Nepali women who had been rescued from brothels and were currently living in a shelter home in Kolkata. They had all been trafficked from Nepal to West Bengal, and were rescued by the police and NGO employees. The shelter home is owned by an anti-prostitution NGO. In general, respondents’ ages ranged from eighteen to forty-five years. What follows is based on my findings from these interviews.

The most striking finding was that although all of the women fell under accepted national and international definitions of having been trafficked, not all of them considered themselves as such and a few had known that their potential jobs would involve sex work. Out of the twenty-four sex workers, twelve had been married. One was a widow and the other eleven had been abandoned by their husbands. Seven stated that they had experienced domestic violence. The majority had children and thirteen were single mothers. Two had been trafficked by their respective husbands. The average age at the time of marriage was

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12 NGO employees often accompany the police on brothel raids. Many raids are initiated by NGOs in conjunction with the police.

13 Many respondents did not know their exact age and made a guess as to how old they were.
between twelve to fourteen years. Some had gone back to their parents’ house after being thrown out or abandoned, and were subsequently sent back to their in-law’s house by their parents because of the dominant cultural norm that a married woman should live in her husband’s family home. One young woman had been a sex worker in her home village before coming to Kolkata with a neighbour who was also a sex worker. Most cited poverty-related reasons for making the initial decision to migrate, but not all. Among the other reasons were the desire to become a singer in the face of family opposition, the desire to look for a mother who was also a migrant worker in Kolkata, and the desire to leave one’s current occupation to earn more money. Although this last reason is also poverty-related, a few women who moved into prostitution did have other jobs before, so they were not as poor as those interviewees who described going without food for a few days at a time. However, the other jobs paid less than sex work. Nurses’ assistants and domestic servants appear to be two common jobs which precede prostitution. It is common knowledge that sex workers earn more money than women in these two professions.

With regard to remaining in prostitution, the decision-making process was not uniform for all these women and more importantly, in very few cases was it a straightforward issue of being tricked, forced or abducted. Twenty-six women stated that they had made their own decision to migrate in search of work, and only one stated that she did not feel in control of her life and decisions in the period leading up to being trafficked. Once having been trafficked, the majority felt that there was “no other option” at the time, so they simply continued. In particular, eighteen women felt forced to remain in prostitution because of poverty and/or a lack of other alternatives. Another eight left prostitution after initially having been trafficked but then returned because they saw it as their best option for earning
money. In one memorable interview, the interviewee, Savitri, described how she had been repeatedly sexually harassed and then trafficked at the age of twenty-two. She escaped, went home, returned to the city to work in a shop and the shop owner trafficked her again. She then became fed up and decided to remain in prostitution. This was not completely unusual. Another woman, Shobha, left her abusive husband and lived and worked on her own. She eventually decided to become a sex worker after years of sexual harassment and rape. She explained, “When I was raped, I felt horrible. I felt like a fallen woman, and felt angry at men for all the sexual harassment. I felt as if they had spoilt me. So I thought I would in turn spoil them by becoming a flying sex worker.” 14 And finally, Shanti was married at age eleven and had three children. Her husband often beat her and did not give her enough food. Around the age of twenty-five, she decided to go work in Kolkata, but the neighbour who had promised her work there trafficked her to a brothel in Mumbai. She was brutally raped, beaten and burnt. She was forced to serve clients in a brothel and eventually escaped by climbing down a tree. Upon her return home, Shanti’s abusive husband threw her out with her three children for “being a prostitute,”15 although he kept the money she had received in tips from customers. She felt that she might as well leave her village and return to prostitution because she needed the income to take care of her children, had always faced sexual harassment16 and might be raped anyway if she was not willing.

The younger Nepali women described experiences that were similar in some ways but very different in others. Two had been married before being trafficked, and they had also faced domestic violence. All of them left with people who promised good jobs in Kolkata,

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14 Shobha. A friend introduced her to the sex trade. A “flying sex worker” is not based in a brothel, but does sex work in hotels from time to time without being permanently based there. Interview with author, Kolkata, August 2009.
15 Shanti. Interview with author, Kolkata, August 2009.
16 She had previously worked as a housemaid.
with the exception of one who had been kidnapped. Some had left with their family’s knowledge and consent, and some had run away. None of them had any children (one of the married women, Vidya, had suffered a miscarriage after being repeatedly beaten by her husband), but most had parents and siblings to whom they wanted to send money. Three of them had been told about the possibility of being a sex worker along the journey and had decided to go anyway. Interestingly, five out of the ten interviewees said that they had not wanted to be rescued.

Fifteen out of thirty-four interviewees had never attended any kind of school. A further fifteen attended elementary school for some time but did not complete the schooling process, and only two had completed the equivalent of high school.¹⁷ For those who had not gone to school, the universal reason given for this was poverty. One woman explained the rationale behind her parents’ decision to take her out of school as follows: “We were poor, and my father asked ‘What is the point of having education when we do not have enough to eat? What will education do?’”¹⁸ In some cases, supplementary reasons were given—including long distances to the school and a lack of teachers in rural areas of Nepal. Before deciding to migrate, most of the women (married and unmarried) generally spent their time doing farming and/or housework.¹⁹ Women who had been married at a very early age explained that this was generally a common practice in rural villages in India and Nepal. Even if they had started school, girls are often made to stop school in order to get married,

¹⁷ The level of educational attainment of two interviewees remains unknown.
¹⁸ Sarala. Interview with author, Kolkata, August 2009.
¹⁹ It is worth noting that “housework” here is vastly different from Western understandings of the term. Household chores include fetching water and going into the jungle to collect wood for cooking fires. In Nepal, this is often in the mountainous terrain of the Himalayas.
due to the belief that not doing so increased the likelihood of the girl being “spoilt” later on.\textsuperscript{20} In most cases, the traffickers were not complete strangers although the degree of familiarity to the woman varied.\textsuperscript{21}

Contextual knowledge of these women’s lives demonstrates that the circumstances of sex trafficking vary widely, and that the process is far from clear-cut. Thus, some women were trafficked in the conventional sense—tricked by a false promise of employment—only to realize afterwards that they had been sold and what was intended once they were inside a brothel. Yet, others were initially promised “a job,” told about prostitution on the way and then made an independent decision to continue. The stories of Sita and Ambuja illustrate this contrast. Sita was trafficked at the age of eleven into the construction industry in Uttar Pradesh, and she was forced to carry bricks. Around the age of fifteen, she was then sold to a man to be his wife. When she refused to marry him, he sold her to a hotel owner who raped her and forced her to do sex work. A customer helped her escape, and she made her way to Sonagachi in Kolkata where she continued to work as a sex worker. By contrast, Ambuja is from Nepal and had been rescued from a brothel in Haldia, Kolkata. She was twenty years old at the time of her interview and had never been to school. She spent her time at home doing household chores and cutting grass for the family’s animals. She told her family that she was going to migrate to Kathmandu in search of employment. Along the way, she met a woman. This woman told her about the possibility of being a sex worker. Ambuja described how she felt that her circumstances caused her to decide to enter the sex trade; she did not face any violence and she was not physically forced. She also did not feel any particular

\textsuperscript{20} “Spoilt” refers to losing one’s virginity and having sex before marriage.
\textsuperscript{21} Traffickers were variously described as the father’s friend, someone she had seen sometimes along the road, a female friend, among many others.
emotions about prostitution itself. She did not want to be rescued and she told the police that she was there of her own accord. She did not like staying in the Shelter Home.

Sex trafficking even occurs simultaneously with other forms of employment. Seema’s father died just after she finished high school. While working as a tutor for young children, she was tricked by a friend of her father’s and trafficked to a brothel in a residential apartment. She was initially blackmailed into remaining in prostitution after being trafficked, but after the blackmail stopped she decided to continue doing it to supplement her tutor’s income.\textsuperscript{22} Similarly, the women’s experiences once inside the brothel varied. Confinement, being drugged, physical and sexual violence were described by some women (for example, Seema was initially drugged and raped), while others experienced no physical violence and agreed to become sex workers when their situation became clear because they felt they had no other employment options. For example, Sushila was married at the age of fourteen. She had two children before her husband left her. She came to Kolkata alone in search of employment at the age of nineteen, and she was tricked by a woman who promised her a job as a nanny. This woman brought her to a brothel in Sonagachi. Only upon arrival at the brothel was the nature of the work explained to her. Sushila described how she was not forced to stay but she decided do so because she needed the money to look after her two children. She did not think about telling the police and would not have done so anyway, because she felt that although the woman had lied to her, the woman had also shown her a way to earn money. She also had a rather philosophical view of the process—she recalled

\footnote{Seema. The blackmail took the form of threatening to expose her as a prostitute to everyone in her village. Several trafficked women were blackmailed at different points in this way. Interview with author, Kolkata, August 2009.}
thinking that she needed a job at the time, and this was the job that she got. Out of the thirty-four interviewees, twenty described being trafficked by women.

(ii) Nepal

(a) Restaurant Industry Workers

The “restaurant industry” in Kathmandu covers traditional restaurants that cater to lower-income earners, restaurants that serve food and may also have a brothel attached, dance bars, dohori restaurants, and cabin restaurants. Most notably, it does not include traditional restaurants that cater to middle and upper class Nepali customers and tourists. However, there are dance bars that also cater to both wealthier Nepali men and male tourists. In all of the categories, women report economic exploitation and sexual harassment, including from police and government officials. This was also confirmed by my interview data. In addition, all of these restaurant workers (including those women who are waitresses only and do not dance) face very high levels of stigma from society at large, so much so that there are NGOs that lobby the government to improve the working conditions

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23 “Dance bars” are bars in which women dance for the audience and men have the opportunity to also dance with the performers.

24 Dohori restaurants are very similar to dance bars. “Dohori” is the Nepali word for “duet.” Women sing and men can sit and be entertained or also come onstage and sing with the women.

25 This refers to restaurants in which male customers can pay for a woman’s company for dinner in a private room (referred to as a cabin), and each restaurant would have several such cabins. I received conflicting evidence as to whether sex was involved, but concrete evidence that some degree of touching was expected. I concluded that some cabin restaurants may also offer sex, but not necessarily all of them.

26 Incidentally, I visited a dance bar accompanied by two male white friends (also tourists). I attracted the most attention as a foreign, Indian-looking female customer (presumably a rarity in dance bars), while my friends were taken for granted. The dancers remain fully (albeit skimply) clothed for the whole performance.

27 This most commonly takes the form of not being paid on time or not being paid at all.
of restaurant workers. Of those who were trafficked, many of the life history characteristics of trafficked women were shared: all eight women had not finished school, two had been married as children and two were forcibly married. The latter two were also physically abused by their husbands. In addition, the means of entering the industry varied enormously in one small sample. For example, Geetanjali started working in a restaurant at the age of thirteen when a village sister 28 told her that she could get “very good work” by going along with her (the village sister). She went because her parents were unemployed and her father was very ill at the time. By contrast, Nivriti ran away from home after the head of her village advised her mother to remove her from school because she might “rub stool on your nose” with too much education. 29 She said that she did not want to be a cowherd, so she came to Kathmandu where she first worked eighteen hours a day in a carpet weaving factory. She left when a village brother who was also in Kathmandu told her about a job in a restaurant and that she would be able to get lodging with the sisters of one of his friends. On the first day of her new job, the friend took her to his apartment and forced her to marry him. 30 She then lived with him as his wife and continued to work in the restaurant because she felt that if she went back home, her mother would “spit on her” and the same society that had criticized her

28 Many women were trafficked by males or females from their village who are not blood relations but are referred to as “brother” or “sister.” I shall hereafter use the phrase “village brother” or “village sister” to denote such persons.

29 Meaning that Nivriti might become too independent and do things that would bring shame to her family. Nivriti, interview with author, Kathmandu, May 2010.

30 This friend also worked in the same restaurant. She went with him because he was the friend of her “village brother” and she had assumed he was going to take her to his sisters’ dwelling. Such marriages are not formally registered. However, for many Nepalis, the strength of the religious marriage ritual is sufficiently binding.
would say “I became stink after reaching Kathmandu.” Interestingly, Nivriti stated that she had never thought of herself as having been trafficked until she told me her story.

In opposition to those who were trafficked into the industry are those who were fully aware of what they were going to do. While three shared similar stories of poverty, having siblings who already worked in restaurants, and deciding to move to the restaurant because other jobs paid too little, one woman, Neha, described her experience in terms that were very empowering. She was married at the age of fifteen and then had two children. At the age of eighteen, both of her children died in the same month. She ran away in the midst of her grief and subsequently started working as a dancer in a dance bar at the suggestion of friends, in order to ease her pain. She felt that she always had a choice to leave, but she did not do so because she felt that her co-workers understood her and helped her to deal with her personal trauma. When her husband eventually found her, she explained that she had no desire to return and he said that he understood.

31 At the time of the interview, she had separated from her husband after years of domestic violence. She has one daughter. She decided to conceive after her mother-in-law said that as a restaurant worker, she would be unable to have a child. The insinuation was that she interacts with many men.
32 She said this independently without any suggestion on my part. When I began the interview, I was working under the assumption that she was a restaurant worker who may or may not have been misled about the job. I had initially asked her to tell me about how she came to Kathmandu. I had not asked her if she had been trafficked or if she was married.
33 This in itself is quite unusual, given the high level of stigma associated with being a dancer in a dance bar.
(b) Domestic Labour Migrants

In the villages of Eastern Nepal, many women are approached by employment agencies promising “good jobs” in wealthy Middle Eastern countries (particularly the Gulf States), with starting salaries of 10,000 Nepalese Rupees. These women are overwhelmingly poor, illiterate seasonal labourers who work for 150 Nepalese Rupees per day for two weeks at the start of the harvest period and two weeks at the end. For the other eleven months of the year, there is no work. Thus, the offer is attractive to many women and trafficking in this part of Nepal to the Middle East is very common because of the geographic proximity to the Indian border. Many families take high-interest loans in order to pay the amount demanded by the employment agencies. Most women are taken overland through India, handed over to agents in Delhi or Mumbai, given fake visas and sent to a corresponding employment agency in the relevant Middle Eastern State. There are many such agencies in Nepal, some of which are registered with the government and many that are not.

Female migrants had varying experiences. All described working extremely long hours, staying for years before being allowed to return home on leave, and various forms of economic exploitation (for example, being paid less than was promised or not being paid at all). Some were not physically abused (but sometimes scolded), some reported being hit or shoved by the bosses but not sexually abused, and some were forced to have sex with the

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34 Four had never attended school.
35 Roughly $2 CAD.
36 Two interviewees reported paying 60% interest on their loans. Interviews with author, Sunsari, July 2010.
37 Sixteen hours per day seemed to be the average, but some recalled working up to twenty-two hours per day and looking after fifteen children at once. Interviews with author, Sunsari, July 2010.
38 One migrant described being burnt with a hot iron by her female boss. Interview with author, Sunsari, July 2010.
male head of the household, male relatives and guests. For example, Manishi was taken to Saudi Arabia with five other women. She worked extremely long hours and was also sexually abused by her male boss. When she became pregnant, she was put out of the house. The police found her and kept her in custody for one month until another Nepali migrant worker and a Sri Lankan migrant worker collected money to get her home.

The preceding story is not completely unusual and there appears to be precious little assistance for Nepali women in foreign states. Basanti agreed to go work in Lebanon as a domestic worker39 but was sent to Kuwait without her consent. She was trafficked to a red light area and was subsequently beaten and raped to break her into prostitution. She escaped by jumping from the top floor window of the brothel.40 However, whenever she ran away, the agent always found her again. She was eventually taken to the employment agency’s office. While she stayed at the office, Basanti described how the agency tried to force her to beat other women to break them in to prostitution, but she refused. She learnt that she was one of twenty-six women who had been sold by that particular manpower agency to the red light area of Kuwait. Basanti was told that she either had to pay 50,000 Nepalese Rupees before she would be sent back to Nepal or she would be jailed. She went to the police station where she was jailed for violating the terms of her contract. She stayed in jail for two months until her family sent the required amount and the police released her.41

39 Basanti made the initial decision to go because she is illiterate and thought it was her best chance of getting a good job. Interview with author, Belbari, July 2010.
40 At the time of the interview, she described how her leg injuries had not yet healed. Ibid.
41 It is unclear to me whether this money was split between the agency and the police station. Basanti did not seem to know. However, I would guess that it may have been shared because Basanti described how her entreaties to the police were always met with the same response: that the employment agency would purchase her ticket back to Nepal. 50,000 Nepalese Rupees is a huge amount for a poor family to put together. Ibid.
(c) Sex Workers

The red light area in Kathmandu is called Thamel and is intriguingly embedded within the tourist district. “Massage parlour” is the local phrase that denotes a brothel. There is a small number of high end places that cater to tourists looking for a pure massage\(^{42}\) as well as a vast number of regular “massage parlours” that are actually brothels catering to both tourists and Nepalis. The massage parlours are located down alleyways and on the 2\(^{\text{nd}}\) and 3\(^{\text{rd}}\) stories of buildings, so that one does not notice them at all if one is not actively looking.\(^{43}\) Thus, it is vastly different from the red light area of Kolkata where sex workers come out on the “line” around 4 pm every day and the brothels are clearly visible. As mentioned above, I also interviewed four young women at the Indo-Nepali border (on the Nepali side) who were rescued while crossing the border with traffickers.\(^{44}\) Three of these women are Nepali and one is Indian.

As with the women trafficked into the sex trade in India, despite the commonality of poverty, the lives of these women and the circumstances in which they were trafficked vary enormously. Significant disruptions in family life were described, including one or both parents dead and experiencing physical abuse from parents, step-parents, husbands, in-laws or other relatives.\(^{45}\) Unsurprisingly, twelve interviewees had run away from their homes (either from their parents’, relatives’, or in-laws’ houses). As a result, when blood

\(^{42}\) That is, the North American/European equivalent of massage therapy but at a fraction of the cost.

\(^{43}\) I visited around twenty massage parlours and as I entered each one, I was continually amazed that I had never noticed it before. At first glance, the district seems to consist of hotels and shops catering exclusively to tourists who come to Nepal for trekking in the Himalayas. It in no way fits the North American stereotype of a “seedy” red light district.

\(^{44}\) I am making the assumption that the persons who accompanied them were planning to traffic them into the sex trade in India or the Middle East (via India) as this was the information given to me by the NGO personnel that did the rescue. Based on the stories told by the women, it seems to be a plausible assumption.

\(^{45}\) Aunts and uncles appear to be the most common, as girls are often sent to live with aunts and uncles in circumstances in which parents are absent. One interviewee was beaten quite badly by her own son when he learnt that she was a sex worker. Both her legs were broken.
relatives, village brothers/sisters or friends made job offers, these offers appeared to be very attractive. Thus, many women were trafficked by means of trickery (including, in this context, job offers to do only “pure massage”). However, this was by no means the rule. Overall, twenty-eight women stated that the decision to migrate had been their own. I shall engage in three different life histories below to demonstrate the contrasts that can characterize the process of sex trafficking in one country.

Tripti was eighteen years old when she fell in love with a classmate. They both left school in order to get married. However, because theirs was an inter-caste marriage, both families ostracized them. They have one daughter. She and her husband came to Kathmandu in search of employment. After living with her brother-in-law and his wife for a short time, the latter forced them to leave and the family stayed for some days under a staircase under a shop with no food to eat. Tripti wept upon recalling how hungry they were, and that when her daughter looked at the shop and asked her for a biscuit, she did not have the money to buy one for her child. A neighbour told her about going to work in a massage parlour but described the work as pure massage only. Her husband agreed and she went with the neighbour to the massage parlour. When she learnt that sex work was expected, she refused to do it for two days. However, the time was drawing close for admitting her daughter to school so despite her feelings, she started to do it for the sake of her daughter’s education. Her friends also told her that she would get used to it. She has never told her husband exactly what she does, and the fear that he might find out causes her a great deal of stress. Interestingly, she expressed quite assertively that although she was forced to become a sex

46 Two interviewees were trafficked by blood relatives who also owned massage parlours. Interview with author, Kathmandu, June 2010.
worker because she needed the money, she also feels that she made her own decision to do it and that she does have control over her life.

Chameli stopped school when she was very young because her mother died. She lived with her brother and his wife, but ran away to Kathmandu because they treated her very badly. She lived with an uncle and worked as a dishwasher. One day, her boss gave her a drink that made her unconscious and she woke up in a locked hotel room. There was blood on the sheets and she learnt that she had been gang-raped and that she might be sold in Mumbai. She worked (without pay) in the same hotel as a dishwasher and sex worker. During this time, she became friends with a woman who worked in a nearby massage parlour, but this woman subsequently blackmailed her into joining the massage parlour by threatening to tell her relatives what she did. She thought that she might as well do it since she had already been raped and was not earning any money at the hotel. However, the woman took her commission at the massage parlour and gave her very little money for food and clothes. At the time, she felt trapped in prostitution and started using marijuana.

At the age of seventeen, Chameli left the massage parlour and went back to domestic work. She met a soldier and after consulting with her family, she married him. However, she then learnt that he had married someone else two weeks before, so she was his second marriage. His first wife initiated a case against him and got property from him. He stopped working and she (Chameli) became pregnant. She left the house for several reasons— they lived “hand-to-mouth,” she needed to look after her son, and her mother-in-law forced her to do a lot of housework. One of her husband’s uncles owned a massage parlour in Thamel so she returned to the sex trade and started working there. She described feeling forced the first
time she entered the trade because of the blackmail and the second time because of the needs of her son. She worked up to the last trimester of pregnancy and started again two months after giving birth.

Kalyani is from Sikkim in India. Her mother and all her siblings left the house at different times and her father was an alcoholic who beat her. At one point, he ran up a very big bill in a bar and he forced her to stop school and work as a labourer in order to pay off the debt. As the path for the school ran next to her house, the teacher and students used to ask her why she was not coming to school. This made her feel ashamed, and she resolved to run away and work to support herself, and return to school as soon as possible. She arrived in Kakadbhitta and the police found her wandering around looking for a job. They offered to call her parents but she refused, so they then told her that they could help her find a job in a hotel. An NGO employee found her in the hotel and took her to the shelter home. She refused to go back home so the NGO enrolled her in a local school as she was very eager to study.

A cluster of factors runs throughout all fifty-one interviewees’ experiences (restaurant workers, domestic female migrant workers and sex workers)—poverty as a defining factor in their lives and gender discrimination, particularly with regard to the circumstances of marriage and lack of education as a self-perceived hindrance. The observation that women who are materially well-off are hardly ever trafficked is unremarkable. However, the effects of poverty should be examined not just in a simplistic black-and-white sense, i.e., if women

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47 Sikkim is located in the mountains of West Bengal just below the Indo-Nepali border.
49 She had not done sex work or any other kind of work there up until the time she was found. However, it was not clear exactly what kind of job the hotel would have eventually had her do. Interview with author, Kakadbhitta, July 2010.
had jobs and money, they would not need to migrate and sex trafficking would not occur. Rather, the alternative epistemology demonstrates that poverty has particular effects on decision-making and life choices, and this analysis is missing from anti-sex trafficking intervention efforts. One interviewee, Nagina, stated, “Why to be born as a daughter? They are only here to get trouble.” What is that trouble? In other words, poverty should be considered from the viewpoint of “poverty in context.” A consideration of the diverse life histories that lead women to migrate, and of what is involved in the process of being trafficked itself, demonstrates that poverty interacts with other factors such as social customs, familial circumstances and gender discrimination to create constraints on decision-making. These constraints should, in turn, be taken into consideration in the design of anti-sex trafficking policy.

The majority of the interviewees were married, although the age of marriage and the degree of consent varied widely. Twenty-nine interviewees were married at some point. Of the twenty-nine women, fourteen were married as children and five had been forcibly married (three of whom also fall into the child marriage category). Two marriages were inter-caste and led to family ostracism (as with Tripti above). In very many cases, as the cases of Chameli and Tripti above demonstrate, the nature of the marriage was very intricately tied to the circumstances of trafficking. Six women experienced domestic violence from their husband and/or in-laws, five women had husbands who performed 2nd or 3rd marriages, eleven were separated or divorced by the time of the interview, sixteen were

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50 By this I mean forced marriage, arranged marriage (by parents or other relatives) to which the interviewee did consent, or love marriage. “Love marriage” is the phrase used to denote the alternative to an arranged marriage (and the general Western understanding of a relationship leading up to a marriage).
single mothers,\textsuperscript{51} two were widows and three had been trafficked by their husbands. Women were poor from birth, but the absence of protection from the vulnerabilities that marriage often introduced greatly exacerbated the urgency of their circumstances. For example, Varuna was trafficked as a child along with three other girls from her village. She ran away from the massage parlour after being raped and went back to her village where her parents arranged a marriage for her at the age of fifteen. She went through most of the ceremony but ran away as the groom was about to apply sindhur.\textsuperscript{52} After running away during the ceremony, she returned to Kathmandu and worked in a restaurant and then a clothing shop. She then worked in a dance bar but was arrested during a police raid. After this happened, she returned to the sex trade.

In addition, some forms of gender discrimination that originate in the natal home carry over into marriage and increase women’s vulnerabilities. For example, Indrani was married at the age of eighteen and had three children. When she was twenty-two, her husband left her. One year after this happened, she joined a massage parlour. She knew what was involved, and although she felt in control of her decision, she felt forced because she had three children to support. She believes that one of the reasons her husband left her was because she gave birth to daughters only, no sons. The stereotype of young, innocent girls being lured from villages does not necessarily always hold true. These women had far wider experiences of life and it is striking that while the journeys that led to the decision to migrate (and in the case of sex workers, remain in the sex trade) were very different, every single mother linked her decision to the need to take care of her children. One interviewee

\textsuperscript{51} No financial help is given from the fathers.

\textsuperscript{52} Sindhur is the vermillion red powder that many Hindu South Asian women wear on their foreheads as an indication of marital status. When the groom applies this in the marriage ceremony, the woman becomes his wife.
(Hansika) has no children but pays for her three younger siblings’ education and living expenses.

The circumstances that enable gross gender discrimination with regard to marriage also overlap to a very large extent with the question of education, with both tying in to poverty. To a greater extent than in India, a lack of education was a recurring theme in the narratives gathered in Nepal. I shall use the case of Avantika to demonstrate this point and reinforce how crucial contextual knowledge is. Avantika never attended school because her parents were too poor. She was married in her village and had two children. When she was eighteen years old, her husband did a second marriage and took his new wife to Kathmandu, leaving Avantika with her in-laws. Her husband never sent money and since her in-laws did not treat her well, Avantika came to Kathmandu with her husband’s aunt. This aunt owned a massage parlour and Avantika’s husband had sent his 2nd wife to work there. Avantika did housework for the aunt at first, but then got the impetus to go work in the massage parlour because she wanted to earn more money to look after her children and she also felt that if the 2nd wife could work there, why could she not also work there? However, at this point, she did not know that sex work was involved. She ran away when the 1st client approached her expecting sex. The aunt arranged a job for her in another massage parlour because she was afraid that Avantika would return to the village and tell everyone what the aunt did.53 Avantika became convinced to begin sex work when others pointed out that she had financial problems and no help from her husband. She explained that she felt worthless and embarrassed at first, and she used to ask herself “Why did I get this life?” Her answer was

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53 It is noteworthy how even massage parlour owners are constrained by the fear of social discrimination in their home villages.
that it was because she is from a poor family and has no education. She also told me that she
does the work only for her children and not for herself, because if she was alone she could
“go anywhere and survive.”

There are several points of note here. Firstly, parental poverty and/or the absence or
death of a parent has a huge impact on the likelihood of being educated or finishing even
elementary education. Of fifty-one interviewees in Nepal, thirty-one did not finish school
and eleven (Avantika included) had not been to school at all. Secondly, poverty was not the
only reason given. Several interviewees described definite discrimination in household
decisions about who was sent to school. In particular, Lekha and Indrani explained that their
brothers were sent to school but they were not; Tejaswi was forced to drop out of school by
her stepfather while her brother and stepsister were sent to school; and Usha believes that
after her mother died, if she had been a boy her step-mother would have allowed her to
continue school. Indrani became incensed even just describing this because she was a good
student and her teachers had told her parents to let her continue to study. However, they did
not, while her brother (who had failed his school exams) was forced to study. As with the
stigma that is associated with not bearing sons, the lack of education is also a form of gender
discrimination that carries over into marital vulnerabilities. In addition to not bearing sons,
Indrani also believes that if she was educated, smarter and more cultured, her husband would
not have left her.

54 Avantika. Interview with author, Kathmandu, June 2010.
55 Lekha, Indrani, and Tejaswi. Interviews with author, Kathmandu, June 2010. I found ample evidence of this
discrimination even outside my sample. In the house where I lived in Nepal, an extremely intelligent young woman named
Kuli did the domestic chores and patiently practised Nepali with me every night. Kuli told me that while growing up in her
home village in the Himalayan mountains of Western Nepal, her brothers were sent to school and she was not.
Thirdly, Avantika’s narrative demonstrates a rather unique decision-making process leading up to the time that she joined the massage parlour (“if the 2nd wife can do it, then why can’t I?”), and shows that while many women were indeed trafficked in circumstances of having been abandoned by husbands or left to fend for themselves in the grey area, and with the vague status, of being a wife among others, there are exceptions. However, while she demonstrated a great deal of courage, she also lamented the fact that the poverty that characterized her upbringing and the resulting lack of education limited her choices. This was mentioned to me in various ways in a high number of interviews. In particular, twenty-two women stated that they felt a lack of education prevents them from seeking alternative employment. For example, Manishi told me that she would like to open a tea shop, but she was afraid to do so because she is illiterate and does not know Mathematics.\textsuperscript{56} For the small number who are doing other jobs, it severely limits their potential, as described by Dayanita who sells snacks from a cart and feels that she cannot manage a big business because she is illiterate.\textsuperscript{57} Even when these feelings were not explicitly stated, a deep desire for an education or deep regret that the opportunity had not been available was often indirectly expressed and for me as a researcher, sometimes poignantly so. Lekha, in discussing what she thought the Government of Nepal should do to help trafficked women, said that she wished she could have gotten an education like me. Jamuna, after being introduced to me and told that I was learning Nepali, said she wished that she had received an education and then she could have learnt another language like I was doing.

\textsuperscript{56} Manishi (domestic labour migrant returnee). Interview with author, Sunsari, July 2010.
\textsuperscript{57} Dayanita (domestic labour migrant returnee). Interview with author, Sunsari, July 2010.
(iii) Needs

“For women who have their own hopes and dreams, they have to earn their own livelihood. Each person has her own view of life and wants to fulfil her desire. She wants to improve her position. These are the main reasons of sex workers as well: to fulfil our desires, hopes and aspirations.”

The quote above captures the theoretical space that the concept of “needs” occupies within an ethic of care. The ideas that “each person has her own view of life” and wants to fulfil her “desires, hopes and aspirations” are the underlying reason for responsiveness in the provision of care. To provide care in practice is also to enable this process. However, “needs” are not a straightforward concept in either politics or philosophy, and there are three main objections to the way in which it is employed in an ethic of care. I will consider each of these in turn.

The first objection is the straightforward question of which needs? Does an ethic of care aim to satisfy physical or psychological needs (such as autonomy), or both? Care ethicists would argue that this question (particularly as it applies to adults) would be best answered by the relevant moral subjects themselves. As Tronto argues, “an ethic of care demands that the final account of needs be provided by and for the people affected themselves.” This approach stems from the ethic of care’s relational ontology. Particularly for those whose voices have been previously silenced, “only through knowledge, talking and

58 Shakuntala. She had been trafficked; she escaped, went home and got married. After her husband died, she then independently decided to return to sex work in order to earn an income. She subsequently joined DMSC and now works there. Interview by author, August 2009. Durbar Mahila Samanwaya Committee (DMSC) is the sex workers’ collective in Kolkata.


listening can carers discern genuine needs.”61 This knowledge takes the form of the alternative epistemology and, in this project, the critical moral ethnography must be undertaken to accomplish this.

The second objection is even if the carer knows which needs are important, what if the subject does not know what she needs or does not fully understand herself? In this case, “the ethical issue does not appear to be one of meeting another’s needs but of helping others to see their desire for what it is and to limit it.”62 With regard to sex trafficking and the anti/pro-sex work debate, this idea is succinctly captured in the argument that women who have been subject to the tortures of sex trafficking and the sex trade may have become brainwashed over time, or the normalization of violence in their lives may lead them to make inappropriate decisions. Therefore, decisions must be made on their behalf. In disagreeing with this statement, it is not my intention to dispute the fact that sex trafficking is a traumatic process and that some women trafficked for sex may indeed require sustained psychological care. However, this should not preclude their ability to make decisions that are in their own best interests, and the critical moral ethnography demonstrates how even in the face of trauma, stigma and other obstacles, the decision to remain in the sex trade was often described in very rational terms. I will use the cases of Shakuntala and Draupadi to illustrate this point.

Shakuntala was trafficked from her village to a brothel in Sonagachi by a distant relative who told Shakuntala that they were going to visit relatives in Kolkata. The brothel’s madam forced her into prostitution, but she managed to escape after twenty days. She ran

61 Porter Feminist Perspectives on Ethics, 59.
62 Koehn, Rethinking Feminist Ethics, 30.
away to the train station in Kolkata and caught a train home. Upon her arrival, she did not think about the possibility of stigma and she told everyone about what had happened to her. However, the villagers then ostracized her and her family. When this happened, Shakuntala became very angry and decided then “From that day, if society boycotts me, I will boycott them. I will not talk to them. I will live on my own.” Even at that time, she challenged the male leaders of the village Panchayat (council) and asked them, “When there is no food and shelter, where are your moral rules? Do you give any help to us?” Shakuntala received no answer from them. She returned to the sex trade for a short time and then left once again after she fell in love with, and married, one of her customers. They had children together, but he subsequently died. After this, she decided to return to the sex trade to provide for herself and her children because she needed to earn an income. She knew of other jobs that she could get, but she could earn more in the sex trade. Interestingly, the members of the village Panchayat now talk to her when she visits and they are on good terms with each other.

Draupadi is from a rural village in West Bengal and has never been to school. She has six siblings and they all helped their father with agricultural work from a young age. She was married and had one child, but her husband died. She migrated from her village at the age of nineteen, leaving her son in the care of her family, and began working in a factory in Kolkata delivering paint. She was trafficked to a brothel in Sonagachi by a childhood friend whom she happened to meet by chance one day, after they had gone to the cinema together (the friend told Draupadi that they would go spend the night at her [the friend’s] sister’s house). When she realized what had happened, she wept and told the madam that she had to leave and return to her son. The madam told her that she had been sold for 3,000 Indian

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63 Shakuntala, interview with author, Kolkata, August 2009.
rupees. Therefore, if she could not repay this sum then she would have to start doing sex work. She was raped by the first customer and forced to begin sex work thereafter. During this period, she described how she cried constantly, until eventually the madam allowed her to leave because she was “crying too much.”

Upon her return to her village home, her mother wept when they were reunited. She learnt that her mother and sister had searched everywhere for her, and her brother had even reported her disappearance to the police. At this point, Draupadi realized that she had no job and she needed to take care of herself, her son, her mother, and her sister. So she made the decision to return to the sex trade to earn money. Once she started earning, she had thought that she would like to send her son to a reputable boarding school. However, her sister was also very attached to the child and did not want this, so Draupadi consented and sent money back to her sister in the village for her son’s education. Around this time also, Draupadi fell in love with a customer who wanted to marry her. He told her that she could leave the sex trade and be a housewife. However, she decided to remain as a sex worker because she did not want a loss of her independence and because she needed the money to support her family, including what she felt was an obligation to pay for her two sisters’ marriages.

After Draupadi had saved enough money, she bought land in her village for her family. However, after she did this, the villagers often made rude comments to her family members. One day, while her brother-in-law was ploughing the field that she had bought and another rude comment was made, he told the villagers “She is not doing any harm to you, or taking anyone’s husband, or telling you to do sex work. Whatever she is doing, she has managed to

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64 Draupadi, interview with author, Kolkata, August 2009.
65 Draupadi wept upon recalling these details to me.
buy land and provide for her child and family. When she was in poverty, no-one brought a bottle of milk for her child or asked her how she was.\textsuperscript{66} Draupadi explained that since then, when she returns to her village, these same villagers now invite her to their houses. She has kept her long-term suitor as well. At the time of the interview, Draupadi’s son had moved to the city nearer his mother and had just completed a Master’s degree in History.

Both Shakuntala and Draupadi were trafficked into the sex trade and experienced serious violations of their human rights, having been forced to do sex work against their will. Yet, it would be difficult to argue that either woman was brainwashed into returning to the sex trade. In each case, it was a strategic economic decision. For Draupadi, it was also a means of preserving her independence in order to enable her to meet the needs of her family. The evidence reinforces the importance of the alternative epistemology— women who experience high levels of trauma and want to leave the sex trade should certainly be provided aid in doing so, and it may be that in some cases, psychological care is desired/required. However, it cannot be assumed that all women who were trafficked are poor, illiterate, and unable to articulate their needs, and should therefore be removed because it is what would be in their best interest. Also, in a context in which female migration in general is viewed negatively, it negates women’s independence of action in making the decision to migrate in the first place.

Similarly, recognizing and respecting the ability of women to articulate their needs is not equivalent to minimizing or trivializing the risks associated with the sex trade. This becomes pertinent as many analysts and activists argue that recognizing sex work as a

\textsuperscript{66} Ibid.
profession would normalize its risks and cause women to encourage their daughters to become prostitutes. As a result, this would facilitate higher levels of second-generation prostitution.\textsuperscript{67} This view also reflects an implicit assumption that women do not possess the ability to differentiate between the choices they make for themselves and the ways in which they act to meet the needs of their children. The fact that every mother spoke about wanting an increased capacity to be able to take care of her children, particularly with regard to their education, provides evidence against this assumption. In addition, the critical moral ethnography did not uncover women who were indifferent to whether their daughters became prostitutes. Rather, they usually stated a desire for their children (girls and boys) to be lawyers, doctors, or engineers.\textsuperscript{68} Sita, whose story of having been trafficked across Northern India was outlined above, stated that she wants her daughter to have a good education and most emphatically did not want her daughter to be a sex worker “from her heart, because of society. I have suffered a lot in sex work and I want a better life for them [her children], especially my daughter.”\textsuperscript{69} Sita was working to provide for her children, and her chief need was a reduction in discrimination against sex workers, so that the corresponding discrimination against their children and access to education could be lifted. There is a high level of cognizance regarding the potential risks of the sex trade and the social discrimination that is inherent therein. This cannot be used as an argument for an inability of trafficked women to articulate their needs.

The final objection to the ethic of care’s use of the concept of “needs” is the potential scenario in which care becomes paternalistic and caregivers impute the needs of the ones

\textsuperscript{67} For example, ND 5.
\textsuperscript{68} In this sense, they are perhaps hardly any different from women in any other profession and any other country.
\textsuperscript{69} Sita, interview with author, Kolkata, August 2009.
being cared for. I agree that this is a danger and, furthermore, it is characteristic of the existing anti-sex trafficking regime. That is, underlying the existing anti-sex trafficking policy is an imputed need for women to leave the sex trade and lead different lives. In her objection to the ethic of care with regard to this distortion of needs, Koehn argues that “If freedom is a prerequisite for the choices that define us as the individuals we are, the care ethic’s nurturing stance may often prove to be inconsistent with the respect for the individual it purports to prize.”

In keeping with the first and second objections (and all three are related), this danger can be avoided with the appropriate methodology for providing care. Care that is responsive ought not to be paternalistic, and responsive care also requires an inquiry into how power relations (including gendered power relations) feature in, and affect relations of, care.

With regard to care for trafficked women, even before needs are questioned and defined, to begin using an ethic of care approach (as I employ it) requires an acceptance of the assumption that women are moral agents with a right to self-direction. Therefore, their views of themselves and their lives are ethically significant. To care for adult trafficked women in this sense is to enable their freedom and foster their capacity to make choices that are in keeping with their interests, values and identities. Thus, I understand a “need” to be that which should be addressed in order to further this goal. It is in keeping with the methodology of the ethic of care, in so far as those who are affected have articulated this as their core need. I am cognizant of the fact that I have adopted what Koehn would describe as a “psychological” description of need— that is, autonomy as an overarching need from

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70 Koehn, Rethinking Feminist Ethics, 30.
71 See, for example, Porter Feminist Perspectives on Ethics and Groenhout Connected Lives.
which other needs might stem. Notably, in this context, addressing this need will help enable women to meet the other type of need to which Koehn refers—that is, their physical needs for themselves and those for whom they care—of their own accord.

It is also noteworthy how the absence of a shared interpretation of “needs” closely parallels the absence of a shared interpretation of “human rights” as they both relate to prostitution. Indeed, in the three objections I outlined above, the words “human rights” can be substituted for the word “need” without a loss of conceptual clarity. In other words, which and whose human rights; what if trafficked women do not understand their human rights properly; and what if caregivers infringe on autonomy and impute the human rights of trafficked women? The ethic of care offers a means of working through both types of contestations by offering an opportunity to “disrupt, challenge, and re-describe the social context in which moral discourse emerges and thus to reveal the possibility of common ground or shared meanings and even to begin to put in place the conditions under which these may emerge.”72 The work of the critical moral ethnography is to reveal these possibilities for shared meanings, and confirms Petchesky’s observation that “Needs, unlike rights, exist only in connection with individuals and within concrete historical circumstances.”73 I will discuss in detail in the next chapter some potential means by which the possibilities for shared meanings might emerge, for example, through communities of judgment in which trafficked women participate and migrant resource centers for female migrants.

72 Robinson The Ethics of Care, 27.
Can the needs of trafficked women be met by anti-sex trafficking policy? Understood as a need to foster autonomy so that women can direct their lives in accordance with their interests, values and identities, it is possible because anti-sex trafficking policy does not have to go beyond this caring aim. By recognizing trafficked women’s ability to identify their needs and gathering moral knowledge in this vein, the alternative epistemology demonstrated how their principal need is already one of the inherent aims of an ethic of care— the need for a greater degree of autonomy, and this would in turn enable them to meet the more detailed needs of their own lives, as they relate to themselves and those for whom they care. I will engage in an analysis of these needs below.

Despite the variations in experiences, several significant commonalities in terms of needs can be discerned from the all of the interviewees’ narratives in both India and Nepal. The expressed needs are also closely interrelated. For example, there was no simple expressed need for a higher income. Rather, the ability to earn adequate income was further linked to the ability to meet both material and non-material needs. Similarly, the non-material needs are distinctly related to a need for financial independence, but they are also related to both the socioeconomic structures which enable sex trafficking and the ways in which attitudes regarding prostitution have shaped anti-sex trafficking policy. The desire for increased levels of autonomy was paramount for all the interviewees in both countries. For example, in the case of the Nepali shelter home residents in Kolkata, the most oft-cited needs were “independence,” “to make my own decisions,” “to have a job and stand on my own,” and “to be able to protect myself.” Related to independence is the ability to choose whether
to return to Nepal or not, as not all of them wanted to do so. One young woman described wanting to go back to Nepal, get married and have a “normal life.” The five young women who had not wanted to be rescued all described feeling a lack of freedom and control.

Related to autonomy was the need for a job that would confer “self-respect,” as articulated by many sex workers in Nepal.\textsuperscript{74} Massage parlour work and restaurant work carry very high levels of social stigma, and the need for alternative employment was not a straightforward need for more money. The need for education is also inextricably linked to income, employment, independence and self-respect. The desire for a higher-paid job is obvious, but the accompanying and less obvious non-material needs included the status that comes with the attainment of higher levels of education and better jobs,\textsuperscript{75} studying just for the sake of the pleasure that comes from studying,\textsuperscript{76} and as a means towards the fulfillment of a dream to open a factory where other women can come and work.\textsuperscript{77}

The material needs were to not be forced to return to a situation of poverty, provide money for children, siblings and/or relatives who lived in other locations (including for education, marriage expenses, land, etc.), and save enough money for a house and for old age. For sex workers in Nepal who wanted to leave the sex trade, the most urgent need was a job that would enable them to earn \textit{at least as much as they earned from sex work}.\textsuperscript{78} By contrast, domestic labour migrants overwhelmingly revert to unemployed status upon their

\textsuperscript{74} Lila, Hansika, Ojal, and Tarika. Interviews with author, Kathmandu, June 2010. I shall explore the concept of “self-respect” as it relates to autonomy in much more detail in the Chapter Three.
\textsuperscript{75} Lila and Tarika. Interviews with author, Kathmandu, June 2010.
\textsuperscript{76} Ojal. Mathematics and Science are her favourite subjects. Interview with author, Kathmandu, June 2010.
\textsuperscript{77} Ibid.
\textsuperscript{78} Many interviewees stated that they did not earn enough doing domestic work (on average 1,500 Nepalese Rupees per month as opposed to 8,000-10,000 per month doing sex work). Jamuna recalled that at one time, she was a maid at six different houses and at another time, a laundry woman at 8 different houses and she still did not earn enough. Interview with author, Kathmandu, June 2010.
return home and the majority of these interviewees expressed the need for a job that would enable them to earn some income to support themselves and their families. Economic vulnerability often begins from an early age, and sometimes in ways not immediately appreciated by the outside observer. One of the more unusual ways was migrating for employment at a young age in order to save money for a “good marriage,” including a dowry.79

The sex workers in India had already moved on with their lives after having been trafficked. Thus, they did not express an immediate need for freedom in a physical sense or being in dire need of income. In the light of their experiences, they suggested that a woman should be empowered to make decisions regarding her education and employment, not face gender discrimination, and be able to choose her own path in life. This empowerment must also include the ability to escape from situations of abuse, including sexual harassment—an activity that does not always immediately come to mind in dominant framings of sex trafficking issues. Many had accepted sex work as a career and had needs related to their ability to function in this profession, such as removing anti-sex worker laws and decriminalizing sex work. Freedom from discrimination in this regard was identified as an essential need, particularly as it has a significant impact on sex workers’ ability to access quality education for their children. It is worth noting that many of these women had repaid the “debt” that had been demanded when they were initially trafficked, continued on as sex workers, and purchased land for themselves (and sometimes their families) in their home

79 Sarala. Her parents were tricked by a woman they knew. The woman told them that their daughter would work as a maid in Kolkata and be able to save money for her marriage. The woman trafficked her to a brothel owned by the woman’s own daughter. Interview with author, Kolkata, August 2009. I also received anecdotal evidence from some sex workers that sometimes parents willingly send their daughters to do sex work in order to save money for a dowry. Dowry is officially illegal in India.
villages. For example, Sumati was married at age ten and had one child. Her husband kept her child and threw her out of the house. While working in a coalmine, she was trafficked and sold to a man in Bihar by an old woman from her village. She ran away and returned home to West Bengal. When the villagers learnt of what had happened to her, they called her a “fallen woman” and a “dirty woman,” and said that such a woman should not be in the village. She needed to work and her father was in debt, so she decided to join the sex trade in Kolkata. After saving her earnings and repaying her father’s debt, she purchased five acres of land for her brothers in her home village. Trafficked women often overcome very significant financial and personal obstacles, not least of which are very high levels of moral stigma from their neighbours, as the cases of Shakuntala, Draupadi and Sumati demonstrate.

The sex workers in Nepal (including those who expressed a desire to leave the sex trade) articulated similar needs for freedom from discrimination and harassment. This need is particularly acute in Thamel, where restaurants, dance bars and massage parlours are frequently raided by police. The media are often invited to come on the raids. Inevitably, the women’s photos appear in the newspapers or on television and several interviewees had been arrested with their photos published.80 All lived in fear of such exposure.81 In the majority of cases, massage parlour owners pay the fines which the women must repay, creating increased levels of dependency on the owners and introducing ever more complications to daily life. For example, Indrani was arrested once along with another woman and the massage parlour owner paid a fine of 30,000 Nepalese Rupees before she was released. She was subsequently

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80 Rajkumari, Hansika, Rohini, Tarika, Chameli, Indrani, and Varuna (dancer and sex worker; arrested in the capacity of dancer) had all been arrested before. Avantika (also a massage parlour owner) explained that sometimes the women are not given time to get dressed upon being arrested. This information was also echoed by KTM 10. Interviews with author, Kathmandu, May-June 2010.
arrested again during a raid in which the police brought a media outlet along. Her photo appeared on the television and when her landlord saw it, she was evicted. Not all felt that massage parlours should be closed because most of the women who work there are uneducated and they provide support to many family members. Most thought that the government should either close all massage parlours instead of doing raids or not allow raids at all. One young woman argued strongly in favour of the creation of a dedicated red light area. Needs such as self-respect and freedom from discrimination and harassment are all closely linked to autonomy. One interviewee, Atreyi, had been trafficked to a massage parlour in Kathmandu at the age of sixteen. She did not like sex work and wanted another job in which she could earn more money. However, in expressing her annoyance with gender discrimination and harassment, she very succinctly stated, “It’s my pussy and I can do whatever I want with it.” The implications for arguments regarding violations of autonomy are clear.

The majority of the interviewees in Nepal felt that the government should provide support to women with regard to education, training and employment. Some also felt that more responsibility should be taken for children, in particular by ensuring that all children had completely free education. Interestingly, for restaurant workers, the need for self-respect also carried into policy. Many felt that the government should implement proper labour regulations in the restaurant industry so that workers can be protected and the rights of all restaurant workers respected. Similarly, and perhaps even more urgently, in addition to

82 Lekha, Jamuna, and Avantika. Jamuna felt that it should be regulated. Interviews with author, Kathmandu, June 2010.
83 Ojal. Interview with author, Kathmandu, June 2010.
84 Atreyi. Interview with author, Kathmandu, June 2010.
support with education and employment, domestic migrant labour returnees felt the need for much higher levels of protection for women who go to work abroad, so that their own experiences would not be felt by other women.\textsuperscript{87} I will explore the availability of assistance to domestic labour migrants in more detail in the next chapter.

(iv) Needs vs. Policy

“The government should find out from women themselves what their problems are. Then they should do something accordingly.”\textsuperscript{88}

This subsection is so named because governance policy often seems to do the opposite of what might be required in care. The majority of elite interviewees cited “poverty” as the cause of sex trafficking. While the need to earn an income is important, as mentioned above it is not straightforward and the circumstances were not always the same for all trafficked women. Some had parents who were simply too poor to afford food for them, some were made poor upon their father’s death, some had a job but needed to earn more, some were beaten regularly and abandoned by their husbands, some had children to look after, and for some their husbands kept their children away from them. Many fell into more than one category, and this is merely a sample of the narratives. These life histories attack the logic of the innocent/forced/victim and guilty/voluntary/sex worker dichotomy, particularly since in

\textsuperscript{87} Manishi, Priyanka, Reena, Janani, Ikshu, Basanti, Hansa, Devaki, and Charu. Interviews with author, Eastern Nepal, July 2010.

\textsuperscript{88} Damini, a domestic labour migrant returnee. Interview with author, Dharan, July 2010.
very many cases, the boundaries between those who were forced and those who came willingly are very blurred.

An analysis of the material and non-material needs articulated by trafficked women demonstrates how both kinds of needs can be traced back to the need for greater levels of autonomy. The relational ontology of the ethic of care allows for a more nuanced appreciation of this fact. “Income” is not merely income to support oneself (although this is important), but it also allows for independence and an ability to meet one’s own caring obligations, as expressed so strongly by many interviewees. Similarly, ending discrimination against those who remain in the sex trade and empowering all trafficked women both fall under the category of fostering autonomy. Thus, the two most important considerations for the ethicist with regard to sex trafficking are as follows: 1) do anti-sex trafficking policies at the international and national levels adequately foster the autonomy for trafficked women and if not, 2) how do moral judgments hinder this process?

With regard to the first question, the answer is captured in the dual “a risk” and “at risk” identity. Current governance policies (the UNTP, SAARC Convention, ITPA and Nepal Control Act) either ignore trafficked women’s needs or present barriers to their fulfillment. Based on the narratives, the focus of trafficked women is less on the trauma of the trafficking experience and more on what the possibilities were for their lives before and particularly after they were trafficked. Policies deal very much with curbing prostitution and very little with these possibilities. My conclusion is not meant to trivialize the trauma. However, the dominant theme in all of the primary interview data across all of the categories and particularly those who had been trafficked for sex was how best to live one’s life given
the present circumstances and choices rather than living in a state of victimhood. This moral knowledge confirms several assertions made in the theoretical literature on care. I shall discuss each of these in turn in relation to my first question above, that is, do existing anti-sex trafficking policy work in such a way that they foster trafficked women’s autonomy? I will argue that they do not.

Firstly, moral reflection is a social practice. Asking about needs and revealing the answers are both acts of moral reflection, and they cannot be discerned in a vacuum—moral understanding is interactive. The policies fail because they are not based on this social practice, but rather are imputations from a worldview that prostitution is a social evil. Furthermore, it can never be corrected without an acknowledgement that the subjects of governance policy are themselves moral agents who are capable of expressing their needs and their views on the policies and associated practices that affect their lives, and the alternative epistemology provides evidence of this capability. As it stands, the assumption that women need to be removed from prostitution has resulted in the violation of some women’s human rights and hindrances to their exercise of autonomy, as the case studies of women such as Nalini, Bhakti and Ambuja—all of whom had been rescued, had no desire to leave the sex trade and no wish to stay in a shelter home—demonstrate. The present moral epistemology that forms the basis of anti-sex trafficking policy is flawed.

The second assertion of feminist ethicists confirmed by my fieldwork is that moral agents are concerned with both self and community. As one law enforcement office in

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89 Porter Feminist Perspectives on Ethics, 24.
90 Ibid., 25.
Nepal explained, “typically for Nepali women, life is often about someone else.” The self is not the sole object of moral concern, nor is it irrelevant. It figures largely in the articulation of needs such as independence, empowerment and the ability to earn a decent income. However, it is also heavily interrelated with other needs such as caring financially for one’s children and relatives. In this context, the importance of “the community” has several dimensions. The first dimension is that of immediate family members to whom trafficked women owe some kind of allegiance in terms of emotional attachments and financial obligation. Thus, upon being trafficked, several women described missing their parents and children, and worrying about their financial security. This was captured in one young Nepali woman’s articulation of her needs for her life. Bindiya is the eldest of seven children and she explained how her family had been unhappy with her low earnings as a maid. This was the reason she had decided to migrate from Kathmandu to Kolkata and she was trafficked in the process. She described feeling a sense of responsibility and disappointment that having now been rescued, she would no longer be able to send money to her family in Nepal. The emotional attachments are also most visible in the desire for a “good life” for one’s children. All of the mothers either wanted to provide their children with a good education or had already managed to do so to the secondary or tertiary level.

The other major understanding of “community” is linked to the experience of moral discrimination. In both India and Nepal, the overwhelming majority of interviewees expressed concerns about moral discrimination and many experienced it firsthand from

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91 KTM 5. Interview with author, Kathmandu, June 2010.
92 Without prompting, the women usually listed a desired profession for their children as well, such as doctor, engineer, lawyer and even a Member of Parliament. Interviews with author, Kolkata, August 2009.
spouses, parents, relatives and neighbours. In some cases it occurred at a very young age independently of involvement in the sex industry. For example, one trafficked Nepali woman faced social criticism for continuing to attend school after her father had died. After being forced to leave school, she went in search of employment and was trafficked.

The very act of migration also incurs moral discrimination. In some places, women who leave their villages alone without a husband are assumed to be employed as prostitutes in the city regardless of which city they went to and what job they ended up doing. Savitri (India) described this to me as follows: “The villagers have a superstition that if a woman leaves her home without a husband, it means the woman is bad. So they were against me for being away from my home without a husband for so long. Bad women should not stay in the village.” This sentiment appears to be cross-cultural to some extent, as Nepali domestic labour migrant returnees also described similar experiences, regardless of whether or not they had been sexually abused. For example, Manishi had been sexually abused; when she returned pregnant and unmarried to her village, the villagers told her that she could not stay there. She was only allowed to stay after her father stood up for her. By contrast, Priyanka and Reena had not been sexually abused or trafficked for sex. However, they faced a lot of stigma from their families and communities, and they described how their husbands accused them of having sex with men in Kuwait. Basanti, Hansa, Devaki, and Charu all described similar experiences of stigma and accusations of sexual misconduct.

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93 Nineteen interviewees in India stated that they had experienced stigma and gender discrimination, while twenty-eight interviewees expressed this sentiment in Nepal.
94 Nandi. Interview with author, West Bengal, October 2009.
95 Savitri. Interview with author, Kolkata, August 2009.
96 This unusual filial support is noteworthy.
Others described facing severe moral criticism upon returning home when their neighbours learnt that they had been trafficked into the sex trade. The fear of reprisal causes many women to keep their experiences a secret and to continue to do so even if they decide to return to the sex trade. The potential effects of stigma even had an influence on the decision to accept sex work after being trafficked in the first instance. The fear that family might find out together with the threat of blackmail and the demand by brothel owners for repayment convinced some women to stay on without a fight. Blackmail is an important consideration—one trafficked woman who stayed on as a sex worker was blackmailed some years later into having sex with some men from her home village who threatened to tell everyone that she was a sex worker. All of these factors are pertinent to genuine contextual understanding. “Community” is at once comprised of people whom trafficked women fear and for whom trafficked women care.

Insufficient autonomy exacerbates trafficked women’s vulnerability in the context of their communities. This applied to both understandings of “community.” Understanding the web of relationships in which trafficked women are situated, i.e., their multiple subject identities, can aid in understanding and appreciating how they make choices within constraints. Furthermore, it can also aid in understanding how practices such as rescues can create further constraints, as Bindiya’s narrative above demonstrates. She was upset because having been rescued, she was no longer able to send money to her family. The community as a source of moral discrimination presents an intriguing scenario whereby trafficked women face a great deal of stigma for having been trafficked, yet the return to the sex trade is often the route chosen to escape this. Again, the context of this choice, made within a particular

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98 Savitri. Interview with author, Kolkata, August 2009.
set of constraints, should be adequately understood. It is hardly the case that the return to the sex trade was undertaken solely to escape discrimination. Rather, other needs were often prioritized, such as independence, income, and caring for children. Thus, the positive and negative aspects of the relationship between self and community reinforce each other. If anti-sex trafficking policy aims to undermine the sex trade as opposed to foster women’s autonomy, then those women who are able to accomplish these goals by remaining sex workers are made more vulnerable, particularly when considered against the fact that for most women, sex work pays more than many other forms of employment that are available to them. Ironically, many women provide food, clothing and shelter (all human rights entitlements) for themselves (and, if relevant, their children), and are then often prevented from doing so for short or long periods of time because of anti-sex trafficking activities such as raids and rescues. The treatment of prostitution as a criminal offence in practice and its associated activities further exacerbate vulnerabilities, violate human rights and hinder the exercise of autonomy. Undermining autonomy also increases trafficked women’s vulnerability in the face of the rights violations that stem from moral discrimination in their communities, including blackmail and emotional abuse.

Finally, the third major assertion in feminist care literature confirmed by the moral knowledge is that women are embodied subjects and, in this context, in sexual politics. That is, they are not only capable of being active moral subjects, but they are also capable of being active sexual subjects. The two go hand-in-hand. “Sexual politics” refers to “the ways in which sexual relations are influenced by inequalities of power,”99 while “embodiment” captures the idea that moral agents are living bodies in possession of thought patterns that

99 Porter Feminist Perspectives on Ethics, 105.
have been influenced by socialization.\textsuperscript{100} Put together, trafficked women might be understood as being full participants in their experiences (as demonstrated by their narratives), as well as being subject to judgments stemming from understandings of women’s sexuality that do not leave room for agency. The overall result is that they are perceived as powerless victims who have been tricked and could not possibly have wanted to enter, or want to continue, in the sex trade, or, in some cases, even want to migrate. NGO border guards who stop and question female migrants if they suspect that the woman is being trafficked are exemplary of how the question of women’s autonomy can become secondary to preventing trafficking. Many women are prevented from crossing the border and sent to transit homes in case they were being trafficked, much to their annoyance.\textsuperscript{101} Socialization shapes such perceptions of victimhood and crafts trafficked women’s reality. For example, the claim that prostitution is wrong because it is a form of violence against women and a loss of their freedom can be linked to the ways in which the resulting fear of moral discrimination does in fact result in fewer choices and less freedom, whether in the context of staying in a shelter home against one’s will, being unable to access quality education for one’s children because of stigma, or being hindered in attempts to migrate because of the chance of being trafficked. The reality is, therefore, extremely complicated.

In sum, the principal need for a greater degree of autonomy is not adequately met because the knowledge related to this need is never unearthed and incorporated into anti-sex trafficking policy. The process of policy-making in this area is not a social practice, it does not effectively consider trafficked women’s needs and the needs that arise out of their

\textsuperscript{100} Groenhout\textit{ Connected Lives, 32.}
\textsuperscript{101} This is a common occurrence at the Indo-Nepali border. I will explore this issue in detail in the next chapter.
relationships with others (whether positive or negative), and it does not treat them as active embodied subjects. If trafficked women are not understood as active decision-makers before, during and after being trafficked, with all the consequences that these decisions entail, then this leads to my second question above— that is, how do moral judgments impede the inclusion of responsibility for real rather than imputed needs in anti-sex trafficking governance policy? It is to this issue that I now turn.

As with the first question relating to the effectiveness of policy, the view of trafficked women as simultaneously “at risk” and “a risk” is the logical starting point. In considering the effects of moral judgments, two issues are pertinent here: first, the ways in which the moral impetus to “protect” ignores needs; and second, the ways in which the moral impetus to “prevent” prostitution ignores needs. The alternative epistemology above demonstrated the links between freedom, empowerment and autonomy. These were the common threads in all of the interviews, regardless of the circumstances of trafficking. It is interesting to note that the language used in anti-sex trafficking campaigns uses a slogan of “3Ps”— prevention, protection and prosecution, although “prevention” ostensibly refers to the prevention of sex trafficking. Both prevention and protection as they are currently employed undermine autonomy (I will elaborate on this further below), and from a care perspective, this is highly unethical, not least because the very defining characteristic of the ethic of care—consideration of the interpersonal view which confirms this need for autonomy— has not been adequately employed.
The fact that trafficked women are moral agents concerned with both the self and community shows how autonomy must be understood in a relational sense. Responsiveness requires not only an acknowledgement of relationships with others, but also an acknowledgment of the responsibility to respect their independence and their ability to make decisions that are in their best interest. There was a disjuncture between the descriptions given by most of the trafficked interviewees and the views of many of the elites involved in the anti-sex trafficking industry. This disjuncture was succinctly captured in the following question asked of me by a consultant for the anti-sex trafficking industry: “Moral judgments are good, but who has the power to shape and lead these judgments?” The judgments of those who have the ability to act often do not reflect the needs articulated by those who are most affected, with detrimental effects on autonomy. Most of the elites whom I interviewed in both countries—people who run anti-sex trafficking NGOs, work at relevant IGO bodies, or are members of law enforcement bodies at the national and state level—expressed the view that prostitution is wrong. Many stated a belief that prostitution and/or migration for the purposes of prostitution in conjunction with the demand for sex are causes of sex trafficking, in addition to other factors such as poverty. For some of the elite respondents, prostitution was unambiguously immoral: “How can it be a profession? It is not respectful...physically, psychologically. It is a crime for the society. Sex trafficking and prostitution...it is almost the same. It is not a healthy profession at all.” Even among law enforcement personnel, the attitude is not one that facilitates choice. Rather, trafficked women are generally regarded as having been tricked and then after a while making a choice to remain in the sex trade because they became attracted to the money, as I outlined in the Introduction. This was

102 WB 7. Interview with author, Kolkata, October 2009.
103 WB 10. Interview with author, Kolkata, October 2009.
the view at both the Anti-Human Trafficking Unit of West Bengal and the “Immoral Traffic Unit” of the Kolkata Police. The former is a state-level body set up with the help of the UNODC, while the latter has jurisdiction in the city of Kolkata only. At both places elite interviewees described encounters with trafficked women who did not want to leave the sex trade. This was also confirmed by Nepal Consulate officials in Kolkata who are involved with the repatriation process. In the Immoral Traffic Unit, a member of the Unit explained to me that “immoral trafficking is restricted to immoral traffic only...trafficking for the purpose of commercial sexual exploitation or prostitution.”

One doctor who advocates for sex workers’ rights explained that just as India once fought for self-rule, trafficked women now need self-rule. At present, there are three main areas characteristic of anti-sex trafficking policy practices that exhibit more “colonizing” tendencies— in providing “choices,” emphasizing the “rehabilitation” of trafficked women, and preventing “re-trafficking.” I will discuss each of these in turn and then consider their collective impact on autonomy.

Poverty is the most commonly cited cause of sex trafficking. The vast majority of elite interviewees suggested that if trafficked women had “more choices” with regard to livelihood options, then sex trafficking would not happen because women would not need to migrate since “No girl or adult even will take a decision to go to another country unless and until she knows that she has no other option. So the options have to be provided. That is the most

important thing.” Thus, the logic is that poverty leads to migration, and migration leads to sex trafficking. The other element of this judgment is that if women had other choices, they would not choose to do sex work. This widespread belief is linked to the debate on whether sex work can be voluntary. All of the anti-prostitution NGOs hold this belief, as do governmental bodies, especially with regard to women who were trafficked and chose to remain in the sex trade. The idea is that the “voluntary” element is removed because of the lack of choice.

Closely linked to the question of choice is the practice of “rehabilitation.” In this context, rehabilitation refers to the process which a trafficked woman undergoes in the shelter home before returning to “mainstream society” (this is the exact phrase that is used in anti-sex trafficking discourse in India, Nepal and internationally). This may include basic counselling and education, as well as vocational training in trades such as cooking, fabric printing and tailoring. In a limited number of homes they can also go outside the home for training in another occupation such as nurses’ assistant, if there is no legal case pending. The process usually takes place while women live in the shelter home, during which time they may or may not be awaiting the conclusion of their court cases. In some cases, they can remain afterwards and continue the training. Trafficked women are sent to either NGO or government shelter homes upon being rescued. During the time that they are in the home and undergoing various forms of rehabilitation, they cannot leave the home. Many of the homes do not allow visitors (especially the government homes), and they are usually surrounded by fences and gates.

106 WB 17: Interview with author, Kolkata, October 2009.
107 WB 5: Interview with author, Kolkata, October 2009.
108 In Nepal, there are no government homes. All of the shelter homes for trafficked women (currently five in the country) are run by NGOs.
Finally, re-trafficking is used to describe the scenario in which trafficked women are rescued and repatriated to their homes, but are then subsequently trafficked into the sex trade again. I asked all of the elite interviewees what was the reason for re-trafficking, and the answers were the same as for trafficking—poverty and lack of choice. However, the results of the primary interviews quickly made it apparent that the process of re-trafficking is not so simplistic. All of the women I interviewed who were re-trafficked according to the conventional definitions in both countries gave clear reasons for deciding to return to the sex trade and only one described being tricked a second time. The qualifications for “victim of trafficking” are often the distance a woman has migrated (whether for the first or second time) and her presumed inability to dictate the terms of her employment. Poverty may play a role, but simply giving “poverty” as the reason and branding the process as “re-trafficking” obscures the thought process that precedes the decision, as well as the needs involved, such as providing for one’s children. My discussion of “poverty in context” above makes this clear. The label of re-trafficking also stems from the presumption that if there were options, migrating again would not be necessary and re-trafficking would not occur.

The more crucial point that is obscured by labels such as “lack of options” and the idea that prostitution can never be voluntary is the fact that “choice” suggests that “we are living in a free world where all privileges are even, and that we can choose where we want to go. In a place like India where your caste, class, status, gender and occupation matter so much, your choices are always circumscribed...that does not mean they [female migrants] do not exercise agency in using one of these options...Choices are always contingent, and they make

109 Susan Dewey, Hollow Bodies: Institutional Responses to Sex Trafficking in Armenia, Bosnia, and India (Sterling, VA: Kumarian Press, 2008), 131.
it [decisions] in that sense of contingency." It is true that many women would choose alternative occupations if given certain choices (in particular, alternative jobs with a threshold level of income that exceeds what they would earn from sex work). The fact that many women felt that poverty and/or a lack of education caused them to stay in sex work after having been trafficked provides ample evidence that this is the case. However, it is also the case that the majority of respondents felt in control of their lives and decisions in this regard. These feelings are not mutually exclusive and are not indicative of moral subjects who are unable to think and decide for themselves. Hoagland points out how moral choice is always exercised within limits, because we always choose among alternatives. Thus, “It is not because we are free and moral agents that we are able to make moral choices. Rather, it is because we make choices, choose from among alternatives, act in the face of limits, that we declare ourselves to be moral beings.” Trafficked women do act in the face of limits, but to the best extent possible as they believe for their lives and the lives of others with whom they share relationships of responsibility. This is how care ethics can be helpful— in revealing the environment of contingency and aiding in understanding how trafficked women make sense of it. Even in adverse circumstances, autonomy is exercised, for example, in decisions regarding whether to stay in the sex trade, leave or return.

As with choices, “mainstreaming” connotes the idea that the sex trade and areas in which it is carried out can never be considered a part of “normal” society. Hence the need for “rehabilitation,” which prepares women for a return to the mainstream. Thus, one anti-prostitution NGO employee explained how they cater to sex workers who want their children

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110 ND 9. Interview with author, New Delhi, August 2009.
to be a part of “mainstream society.”112 On the other hand, non-sex workers are considered “normal” women,113 and sex work belongs to “a different world altogether. For general people and normal people, they do not want that work.”114 Poverty and gender discrimination do limit women’s choices before migration, but templates for rehabilitation also limit their choices afterwards. There is also very little opportunity for women to exercise control over their lives or to choose what they want to do.115 “Rehabilitation,” understood as the restoration of someone to a useful place in society or the vindication of a person’s character and re-establishment of reputation, is a clear judgment of trafficked women. It is made worse by the lack of freedom. One very frustrated young lady who had been rescued from a brothel explained that she had come of her own free will from Nepal, had not wanted to be rescued, and wanted to know why she had been locked up in the shelter home.116 From either an anti or a pro-sex work perspective, it seems wrong that if someone was really coerced into prostitution and locked up in a brothel, she is then rescued and subsequently locked up in a shelter home, or at the very least, heavily restricted, particularly when she has stated an express desire to not remain there. It is a violation of her human rights to liberty, freedom of movement, and freedom from arbitrary detention, and has a severely negative impact on her ability to make autonomous choices.

The assumption that one can rehabilitate a woman because she has been a part of the sex trade is a trivialization of her exercise of autonomy and does not take into account all

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112 WB 11. Interview with author, Kolkata, October 2009.
113 The reference to being a “normal” woman as opposed to a sex worker was made by WB4, a member of the Immoral Traffic Unit, Kolkata Police.
114 WB 10. Interview with author, Kolkata, October 2009.
115 The government shelter homes in India are very secretive, but I received anecdotal evidence that women do very little there. The NGO homes offer a few training and education options. KTM4 informed me that many NGOs keep women without adequate consultation about what they really want to do. Interview with author, Kathmandu, May 2010.
116 Nalini. Interview with author, West Bengal, October 2009.
aspects of her experiences. It also discounts the entrepreneurial spirit that led women to defy societal expectations and leave their homes in search of something else for their lives. This point is far from trivial, given the patriarchal nature of household structures in South Asia. For example, in Nepal, “a family means husband or father,” so unless a woman runs away, permission is required to migrate.\textsuperscript{117} Interestingly, all of the elite respondents who suggested that women should be consulted about what they want belong to the pro-sex work lobby, with the exception of one. A comparison was drawn with the way one might rehabilitate tigers who are endangered: “You cannot rehabilitate human beings in the same fashion...if you actually prevent their basic freedom— freedom of expression, freedom of movement, freedom of taking decisions for herself...you cannot actually rehabilitate women. Because she has a brain, she has senses, she has emotions.”\textsuperscript{118} The interviewee went on to point out the fallacy of rehabilitation on the one hand and talking about women’s empowerment on the other. It is telling that rescued women and girls sometimes run away from shelter homes,\textsuperscript{119} and anecdotal evidence suggests that many who are sent back home after the legal process often return after some time to the sex trade.\textsuperscript{120} Providing limited options, rehabilitation and attempting to prevent re-trafficking are not measures which facilitate independent thought

\textsuperscript{117} WB 3, interview with author, October 2009; and KTM4, interview with author, Kathmandu, May 2010. This was confirmed by my interview data. The majority of the domestic labour migrant returnees described getting permission from their husbands and/or parents before deciding to go to work in the Middle East. Similarly, Tripti got permission from her husband before going to the massage parlour for the first time (although the real circumstances were unknown to them both). Interview with author, Kathmandu, June 2010.

\textsuperscript{118} WB 13. Interview with author, Kolkata, November 2009.

\textsuperscript{119} Three girls ran away from the shelter home in Kolkata the night before I did the interviews with the rescued Nepalese young women, presumably back to the brothels. Shashi (as described in Chapter One) had been trafficked from Bangladesh, described being rescued, sent to a government shelter home, and then running away. She lived with her boyfriend, then went back home, and eventually returned to the sex trade in Kolkata because of the moral discrimination she experienced in her village in Bangladesh. Interview with author, Kolkata, August 2009.

\textsuperscript{120} One sex worker who had been trafficked and now works as a peer educator with DMSC told me that many Nepalese girls who are found to be under the age of eighteen and are sent back to their homes subsequently return to the sex trade (interview with author, Kolkata, August 2009). I met one young lady in the red light area who was 17 ½ years old and was being sent back to Nepal. She told me that she would leave her home again and go to Mumbai to work in the sex trade, and then come back after six months to Sonagachi in Kolkata, as she would then be 18 years old and would not be sent back home to Nepal. She did not have enough to eat at home and her father beat her and her siblings. Interview with author, Kolkata, August 2009.
and critical self-evaluation. \(^{121}\) Such independent thought and critical self-evaluation occur nevertheless—women decide to migrate, do the training, go home, become involved in other occupations, run away, return to the sex trade, move between sex work and other jobs, or even some combination of all of these. However, anti-prostitution measures such as rescues add negatively to the contingency environment in which they occur.

There is a sense in which the governance of gender hides the gender of governance, that is, care for trafficked women is so heavily influenced by moral judgments regarding prostitution and women’s sexuality that the ways in which gendered social structures affect the circumstances of migration and enable sex trafficking are not comprehensively addressed by anti-sex trafficking governance policy. The critical moral ethnography demonstrated how the “3P” approach stems directly from governance of gender considerations (that is, based on moral judgments against prostitution), while the ineffectiveness of this approach misses crucial facts such as the need to reduce gender vulnerability in the context of migration and enable the autonomy of trafficked women. Overall, the dangers of being trafficked for sex have not been reduced. The violations of autonomy and the lack of opportunities that enhance the capacity to exercise autonomy mean that existing anti-sex trafficking policy does not adequately care for trafficked women. The complete answer to my research question therefore lies in the transformational aspect of care ethics. Given the current flaws, how can an ethic of care form the basis of more effective anti-sex trafficking policy?

\(^{121}\) I will explore these various forms of rehabilitation in relation to how anti-sex trafficking policy might more effectively foster autonomy in greater detail in the next chapter.
Chapter Three

Transforming Moral Theory Into Action

“[UN] Convention is nothing. Perception is everything.”

The 3P strategy (prevention, protection and prosecution) that is the hallmark of current anti-sex trafficking efforts globally paradoxically presents overt restrictions on autonomy. The moral stigma against prostitution in and of itself not only damages self-worth but, like gender discrimination in general, is lingering in its effects on trafficked women’s options after migration and trafficking. The negative effects of anti-sex trafficking policies at the international and national levels have become buried under the discourse of the protection of women’s human rights. That is, the existing practices which are purported to protect trafficked women’s human rights stem from an anti-prostitution stance based on the assumption that prostitution must be stopped in order to end sex trafficking. This approach has not stopped trafficking and has negatively affected trafficked women’s ability to make autonomous choices. Therefore, the structure of the oppressive relationship between the international community and trafficked women ought to be changed, and anti-sex trafficking policies should be designed with a view to enhancing trafficked women’s competencies and capacities to exercise their autonomy.

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1 WB 3. Interview with author, Kolkata, October 2009.
2 I include migration here because some anti-sex trafficking strategies such as border patrols affect all female migrants. I will elaborate on this later in the chapter.
The alternate epistemology of the ethic of care demonstrates that anti-sex trafficking governance policy requires an expanded reality. The narratives of trafficked women and indeed the other interviewees who migrated in search of employment reveal not only the multiple subjectivities of their identities and the complexity of the “webs of interdependent relationships which have shaped her present circumstances and contribute to her self-understanding.” They also reveal the flaws in the national and international anti-sex trafficking governance policies that pay inadequate attention to those same narratives. In not paying attention, the responsibilities inherent in policy that should meet needs are shirked. In so doing, trafficked women’s need for autonomy, and the relational understanding of the ways in which autonomy is exercised, are not acknowledged.

The transformational application of care ethics is meant to bring the valuable knowledge of the alternative epistemology down from the realm of metaphysics into the glare of harsh reality. There is precious little work done in this regard among feminist care ethicists, and it is my hope that this dissertation shall make a contribution in this regard. In this chapter, I will briefly outline an ideal anti-sex trafficking governance policy based on an end to gender discrimination. As the full achievement of this goal is unrealistic (perhaps at least in my lifetime), I will focus on what less-than-ideal but achievable policy might look like. In particular, I will argue that an achievable policy should be based on an understanding of autonomy as relational. It is of great importance to all trafficked women (as defined by the women themselves) and can bridge the gap between metaphysics and epistemology on the one hand, and real life on the other. In other words, enabling autonomy is the means by

3 Peach Victims or Agents, 108.
4 Selma Sevenhuijsen, Citizenship and the Ethics of Care: Feminist Considerations on Justice, Morality and Politics (NY: Routledge, 1998) is a notable exception.
which the values and goals of the ethic of care can be employed to alleviate the problem of sex trafficking. I will then discuss attempts to end prostitution, border patrols and prescriptive welfare programmes as three major activities that are typical of existing anti-sex trafficking policies, and I will argue that these are both ineffective and act as clear hindrances to the exercise of autonomy. Following this, I will undertake an analysis of communities of judgment as a possible alternative forum in which moral knowledge can be gleaned and evaluated, and via which autonomy might be enabled. Communities of judgment may be one avenue that links policy with context by allowing for the process of autonomous reconstitution. I will then outline two other national level policy recommendations that are in keeping with an ethic of care: awareness programs and migrant resource centers.\footnote{These two strategies would necessarily be made available to all female migrants. Not only would the knowledge be of benefit to all women who migrate, but in practical terms, trafficked women cannot be identified in advance during the process of migration.} The chapter will conclude with a detailed analysis of the UNTP and the ways in which it might be improved based on the critical moral ethnography and in accordance with an ethic of care.

A. Ideal Governance Policy

The ideal governance policy would be responsive to the factors which facilitate sex trafficking that stem from the “gender of governance.” These include gendered social structures which limit women’s opportunities for their lives, ensure a subordinate status and a catastrophic over-reliance on male-headed households, cast stigma on their decisions to
migrate, support the practices of child marriage, dowry and multiple marriages without divorce, and enable the sale of women as property with little or no legal recourse. Limited income opportunities and insufficient control over one’s life are both caused by a lack of education and information, as well as assumptions about what women can and cannot do. Trafficked women often lack practical legal status and are unable to access either the legal system or social services, even when protections exist in the law. These all in turn create vulnerabilities in the process of migration, and facilitate sex trafficking. Ending poverty will not automatically end gender discrimination, so simply stating that poverty causes sex trafficking and re-trafficking is not the best starting point for an adequate solution.

One can make the case that the “governance of gender”—how the attitudes regarding prostitution and women’s sexuality in general affect the care for women who are trafficked—arise from these “gender of governance” factors. It is not difficult to appreciate how social structures that maintain trafficked women’s inequality foster an environment in which they are treated as a homogenous group of “victims” of sex trafficking in need of protection and/or rehabilitation because they cannot quite grasp on their own what is and is not good for themselves. Discounting the choices they make, imposing “rehabilitation” because prostitution is morally wrong and assuming that “re-trafficking” is never an independent act all reflect this imposed homogeneity. At the official level in both India and Nepal, there is a sense that all trafficked women decided to migrate because of poverty and were tricked into the sex trade. After this, they may or may not accept it and choose to remain in the sex
It is quite true that poverty plays a large role in the lives of virtually all trafficked women. However, even in my relatively small sample, there were three young women who were told about the sex work beforehand, but were rescued and treated as every other trafficking woman (much to their annoyance and distress). Also, in both Kolkata and Kathmandu, there were sex workers who had been trafficked, left the sex trade and then returned. Thus, there are competing interpretations of the process of sex trafficking. These, in turn, mirror the competing interpretations of the human rights of trafficked women, as I discussed in Chapter One. In accordance with care ethics and the use of an interpersonal approach, both contestations should be resolved with reference to the ways in which trafficked women define their experiences, rather than being defined by those looking on from an external standpoint.

The ways in which trafficked women define their experiences form the content of the alternative epistemology on which the ethic of care is based. This is the moral knowledge by means of which any normative prescriptions should stem. For example, from a prescriptive care perspective, beliefs such as “In Nepal...women can only have sex with their husbands” and implementing policies that reflect these perceptions cannot be justified because they are in direct contradiction of the moral knowledge shared by trafficked women (and indeed the other female migrants that I interviewed) about their experiences and need to be able to fully exercise their autonomy. At times, these needs may seem to have very little to do with sex trafficking, and this is also important in terms of the design of policy at any level. For example, the issue of citizenship even within one’s own country cannot be taken for granted.

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6 WB 3. The interviewee was adamant that Nepalese women do not intentionally migrate for sex work. While it was not the case that all of the elite interviewees expressed this particular sentiment, the general beliefs regarding poverty and deception were shared. Interview with author, Kolkata, October 2009.

7 Ibid.
In Nepal, marriage is the institution that confers citizenship upon women to its fullest extent, and is a reflection of the beliefs about what is and is not permissible with regard to women’s sexuality. “If you are not married or if you are single, then you are not a full citizen. And your identity is very much attached to a male identity. If you are not with a man, your identity is very complex.”8 The practical reality of this social structure is a tenuous legal status. Thus, transactions such as inheritance and buying and selling land become very complex and sometimes impossible for single women, divorcees and widows in the absence of a son. I came across several instances of such difficulties in my interview data. Lekha criticized the government for offering no assistance to widows. She explained that after her husband died, she was told by bureaucratic officials to record that her four children were orphans in order for them to receive help from the State. However, she refused to do so because then she would lose contact with her children. It was after this that she joined a massage parlour and started to do sex work. Even though she had not known about the nature of the job when she agreed (a friend had arranged it for her), she explained that she did not feel angry with her friend and she felt perfectly justified in her decision to remain, as she explained to me, “Sometimes even when the police say it is bad work, I want to ask what is the bad work?”9 Legal status may exist in theory, but this absence of practical legal status is the kind of moral knowledge that ought to inform governance policy. It is only in so doing that moral reflection becomes a social practice that actively includes trafficked women as embodied subjects who make judgments and choices about themselves and their communities.

9 Another trafficked woman, Usha, also described similar obstacles. She believes that if she was a boy, she would have been able to continue living in her mother’s house and she would have inherited property. Since her family said that she will get married and go to another house, she is sure that she will not inherit anything. Interview with author, Kathmandu, June 2010.
B. Less-Than-Ideal Governance Policy

“I do not know why some people think it is a great idea to criminalize the client...That is like saying we are going to give you a permit to have a shop. And it will be a very beautiful shop. But whoever enters it, we are going to break their legs.”

“I told them [the Panchayaat\(^{11}\)] when I was in poverty nobody came to help me. I had no other options to earn money. I am not polluting or spoiling the village, I am doing sex work far away. It is my choice, and no-one helped when I was poor. They could not say anything to that. So they stopped [the discrimination].”\(^{12}\)

Can we really end poverty in order to end sex trafficking? This seems virtually impossible in a world in which the international community has not even resolved fundamental debates about how far our moral boundaries and obligations extend. In addition, as mentioned above, there is no guarantee that even if this Herculean task was accomplished, it would occur concurrently with an end to the gender discrimination that is the more fundamental cause of sex trafficking. While alleviating poverty can certainly help, sex trafficking is not solely a development issue. It is also an issue of empowerment and independence. Paradoxically, the ideal of enabling autonomy for trafficked women characterized by complex individual circumstances can form the basis of a non-ideal but achievable anti-sex trafficking governance policy. While this is by no means an attempt to dismantle all aspects of patriarchy, it can be an attempt to find an ethical solution to one

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\(^{10}\) ND 9. Interview with author, New Delhi, August 2009.
\(^{11}\) Most Indian villages have a Panchayat or Village Council.
\(^{12}\) Shanti, explaining her rationale for returning to sex work after she was trafficked and then thrown out of the home by her husband, and how she dealt with moral discrimination from society. Interview with author, Kolkata, August 2009.
small part of it in a way that cares for the subjects of policy and enables their autonomy (and in particular, with regard to their economic and sexual freedom).

The critical moral ethnography showed how difficult it is to stop sex trafficking and provide relevant care to trafficked women with a simple law enforcement approach. It also showed how both the lives of trafficked women and the contexts in which they were trafficked are shaped by their own responsibilities to themselves and others. This latter consideration co-exists (uneasily at the moment) with the need for the international community (via anti-sex trafficking policy) to also take responsibility for trafficked women, as specified by international and national anti-sex trafficking policies (and as I discussed in earlier chapters). The narratives of the critical moral ethnography provide ample evidence to support the argument that a large part of the fulfillment of that responsibility should take the form of enabling the autonomy of trafficked women. This, in turn, would allow them to not only live according to their own choices and values, but to also fulfill those responsibilities that are an intrinsic part of the exercise of their autonomy.

The critical moral ethnography took me part of the way towards answering my research question. The feminist ethic of care can form the basis of more effective anti-sex trafficking governance policy, because a more effective policy would meet the principal need articulated by the subjects of that policy, that is, the need for autonomy. But how? The answer to this lies in answering another overarching question first articulated in Chapter One on “The Ethic of Care” and to which I now return—how can anti-sex trafficking policy structure caring relations such that it fosters the value of autonomy for all trafficked women?
(i) Relational Autonomy and the Ethic of Care Applied: Needs

“We should find out what these women really want for themselves because typically for Nepali women, \textit{life is often about someone else}. And these complexities also figure in decision-making.”\textsuperscript{13}

All of the primary interviewees spoke of their lives, experiences and needs in terms of relationships— with parents, siblings, spouses, the wider extended family, children, madams, fellow sex workers, fellow shelter home residents, NGO employees, law enforcement officials, and governments. The underlying need across all categories of interviewees always came back to the central theme of autonomy within some kind of relational context.\textsuperscript{14} Based on the results of the critical moral ethnography, I have argued that the goal of caring relations in the context of sex trafficking should be enabling autonomy understood in a relational sense. In trying to achieve this goal (and thus answer my 2\textsuperscript{nd} major question), it follows that the ethicist should return to the alternative epistemology. In this regard, relational autonomy becomes a tool that the care ethicist can employ in order to evaluate the moral knowledge gathered in the ethnography. In so doing and very crucially, it becomes a method for bringing the alternative epistemology down from the metaphysical level to the concrete problems of real life.

In describing the problems of dealing with sex trafficking, one Nepali law enforcement official commented “The law does reflect the stigma against prostitution because the law reflects culture, attitudes and ideologies. The law does not come by itself...it has lots of

\textsuperscript{13} KTM 5, italics added. Interview with author, Kathmandu, June 2010.
\textsuperscript{14} I will go into more depth in this regard below.
My analysis in the previous chapter of the ITPA in India demonstrates that this description is equally applicable. At the collective international level, these ingredients coalesced with a high degree of cross-cultural consistency to result in the UNTP. Global governance policy in general and the levels of policy below in India and Nepal reflect social reality. In the case of sex trafficking, that reality is the dominant moral feeling that prostitution is wrong, it cannot be termed “sex work,” and it is always a violation of women’s rights. Yet, the critical moral ethnography demonstrated how the practices that stem from this particular understanding of women’s human rights can provide the context for other rights violations such as freedom of movement and a curtailment of the exercise of autonomy. Also, these policies have not stopped sex trafficking.

In her discussion of the application of a relational approach to the evaluation of human rights and law, Nedelsky argues that the law structures relationships in certain ways. Thus, a relational analysis would first determine how the relevant relations are being structured, and then how these relations in turn either foster or hinder particular values. With regard to the relevant national, regional and international anti-sex trafficking policies, the relations are structured in a paternalistic way, such that the stereotypical female migrant who becomes trafficked for sex is typically a victim (of patriarchy, poverty, and paucity of knowledge). Another way of describing this structure and its implications can be neatly captured in the governance of gender analysis—attitudes regarding prostitution and women’s sexuality in general result in a lack of relevant care for women who are trafficked because current

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15 KTM 5. Here she is referring to the Nepal Control Act. Interview with author, Kathmandu, June 2010.
16 Nedelsky Law’s Relations, 236.
17 My own alternative of the 3 P’s to prosecution, protection and prevention. I use the term “patriarchy” here to capture how most anti-sex trafficking NGOs describe both the gender discrimination in households that might have led to trafficking and the ways in which they feel that prostitution is a violation of women’s human rights.
practices undermine their autonomy, thus ignoring their principal articulated need.\textsuperscript{18} Governance policies which reflect such relations structure an oppressive relationship between the international community (as defined above) and trafficked women, to the detriment of the latter. The critical moral ethnography demonstrates that this oppressive relationship impedes autonomy at three levels: (1) trafficked women’s self-conceptions (2) their competencies and capacities to exercise autonomy and (3) their ability to make autonomous choices.\textsuperscript{19} All are closely interrelated. Trafficked women’s self-conceptions will be discussed in (a) below. The exercise of autonomy and the ability to make autonomous choices will be discussed subsequently in (b).

\textbf{(a) Self-respect and Disrespect}

When I began this project, my overwhelming focus was on how governance policy might best be designed so that its responsibilities towards trafficked women are fulfilled in accordance with the principles of care. But this aim is only a partial solution. It has become apparent to me through the course of my fieldwork that not only do the majority of trafficked women not think of themselves by reference to “victimhood,” but also that their focus is on their own responsibilities towards themselves and others, thus necessitating a relational perspective. Therefore, I cannot do this analysis correctly by focusing only on others’ (i.e., the international community’s) responsibilities towards trafficked women. Indeed, these

\textsuperscript{18} I will explore this need and other needs that arise from it in more detail shortly below.

\textsuperscript{19} Here I acknowledge Mackenzie and Stoljar’s work in describing these categories, which led me to see the categories’ relevance to my own work. Mackenzie and Stoljar \textit{Autonomy Reconsidered}. 
considerations have caused me to move away from the term “victims of sex trafficking” to “trafficked women” as my point of reference.

The equation of prostitution with sex trafficking has meant that either trafficked women are assumed to be coerced or moral responsibility is placed on them to account for their actions in order to fall under the purview of policy— it is not possible to have made a choice to remain in the sex trade, however circumscribed that choice may have been. Even when this choice is expressed, the underlying moral opprobrium to this choice and attempts to show that there is “another way of life” signal a lack of meaningful engagement with trafficked women’s lives. Two main overall effects of this were evident in my ethnography— on the women’s conceptions of themselves and on their ability to legitimately fulfill their own responsibilities to themselves and to important others in their lives. I shall focus on the first effect here, and the second in the next section. The negative effect on women’s conceptions of themselves is a product of the moral stigma against prostitution that structures a paternalistic relationship between the international community and trafficked women. Furthermore, this paternalistic relationship impedes trafficked women’s exercise of autonomy.

The concepts of “dignity” and “self-respect” re-appeared many times in the narratives of both elites and trafficked women. The prevalence of this point led me to research the following definition of “dignity”: “the respect that other people have for you or that you

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20 WB 2. Interview with author, Kolkata, October 2009.
21 For example, WB 7 and WB 10 (interviews with author, Kolkata, October 2009); ND 2 and ND 8 (interviews with author, New Delhi, August 2009); and KTM 5 and KTM 11 (interviews with author, Kathmandu, June-August 2010).
22 Including those interviewees who were not trafficked for sex.
have for yourself.”

The “right to dignity” is often invoked by anti-prostitution activists to demonstrate what is wrong about prostitution. Many people in the anti-sex trafficking industry state that all women have a “right to dignity” and, more importantly, that women who are a part of the sex trade (whether trafficked or not), have “lost their dignity.” Thus, the recovery of dignity is one of the justifications for attempting to end prostitution and, by extension, sex trafficking. In tandem with this discourse, many of the primary interviewees expressed a loss or lack of self-respect, a desire to have a job that would confer self-respect, and/or the opinion that “society” does not respect their profession.

However, the context of the narratives reveals that the lack of self-respect and desire for a “respected job” do not arise from the same understanding of “dignity” that is used in anti-sex trafficking discourse. In particular, while it is the case that some women do feel a lack of self-respect because of the nature of sex work, many others described feelings of lack of self-respect that stemmed from society’s lack of respect for prostitution and sex workers. Of course, both sets of feelings may overlap. The disjuncture between the two has significant implications for autonomy. I shall turn to four narratives in detail to illustrate.

Lila stopped attending school because her parents were old and could no longer afford her education. A friend brought her to Kathmandu with the understanding that Lila would get some kind of job in finance. Instead, she was taken to a massage parlour. For one week she did not do any work, then after this she was forced to do sex work. She decided to comply because she had no other job and no money, although she was afraid in case her relatives found out. She feels stigmatized because everyone thinks that women who work in

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24 This final opinion was stated by many interviewees who remained in sex work.
massage parlours have bad characters. She explained that she does not need a lot of money but she wants another job because she needs self-respect, and sex work does not promote self-respect because everyone in society hates it. She feels that another job is her chief need and that it will give her some prestige. She also felt that she did make her own decision to come to Kathmandu and she does feel in control of her life and decisions.

Chandra was married and had three children, and then she and her husband divorced. She came to Kathmandu with friends and worked in a cabin restaurant before joining the massage parlour. She did not know about the nature of the job when she joined, and felt very sad when she found out. However, she stayed because she needed the money. She feels that the job is a disrespectful one because she has to hide from the police and ensure that her relatives do not find out. For these reasons, she does not like it but she feels that she cannot get another job because she has no education, so “What can you do if you need the money?” She described how she often feels weak, but she is not sure why. Despite this, she asserted that she did feel in control of her life and in control of her decision to remain in the massage parlour.

Ojal was kidnapped by Maoist forces at age eleven, and she lived with them in the jungle for five years where she was trained as a soldier and also studied a little.25 When she was finally allowed to visit her home, she ran away to Kathmandu after the visit because she did not want to return to the Maoist camp. She first worked as a dishwasher in a hotel for 500 Nepalese Rupees per month.26 However, she left because the boss often verbally abused

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25 This was perhaps my most interesting interview and most engaging interviewee. Ojal explained that she studied some Philosophy and Politics whilst in the Maoist camp. She was eighteen years old at the time I interviewed her, and determined to get an education. Interview with author, Kathmandu, June 2010.

26 Recall that this might be compared to the average salary of between 5,000 to 8,000 Nepalese Rupees for sex workers.
her. She asked a friend to help her get another job, and the friend took her to a massage parlour. There, she was told that she could do only pure massage for 25% commission. She noticed that the other girls in the massage parlour earned a lot more for less time worked. They explained sex work to her and encouraged her to do it because since she was already working in a massage parlour, no-one would believe that she only did pure massage. She said that she does it to earn the money, but she feels it is a bad job that lowers her self-respect. She does not want her school friends to find out because they would not respect her. Also, she is afraid of having police trouble because if her photo appears on the television and newspapers, the villagers will find out. She is using her earnings to pay for her own education.

Finally, Tarika came to Kathmandu at the age of fifteen to look for a job, and at first she stayed in a massage parlour owned by a village sister. She did not know the exact nature of the activities there and did not work at first. She described feeling confused when she saw people coming and going all the time. After one week, the village sister told her that she needed to work, she could not just stay without doing anything. So Tarika decided to do it for a little while to save some money and perhaps go for training to be a tailor. After some time, she felt that she may as well stay on because “her character was not good anymore.” She now wishes to get another job in which she can gain self-respect because she wants her parents to be proud of her. When she first started working in the massage parlour, she felt as though she had no control over her life and no options. She also felt very scared.

The four narratives reveal the varying origins of feelings of an absence of self-respect. For Lila and Chandra, this stemmed from society’s lack of respect for the sex trade and those
in it, while for Ojal and Tarika, it was a combination of an intrinsic dislike for sex work and society’s feelings about the profession. In all cases, the judgment of “society” has a negative impact on autonomy and is incompatible with a care approach, regardless of whether one is pro- or anti-prostitution. There is an unspoken assumption in anti-sex trafficking discourse that women who were trafficked for sex were also stripped of their dignity and, if they remained or returned to the sex trade, continue to live without dignity. Since self-respect is, in large measure, derived from others’ respect for oneself, the effect of this social norm is that women feel less worthy in certain ways— a lack of moral self-respect in themselves and a failure on their own part as well as on the part of the wider community to recognize their equal moral worth. Prostitutes engage in an immoral activity and are, therefore, often not regarded as equal and valid subjects of governance policy. From here, it is not difficult to appreciate why the notion of victimhood is given such primacy in policy at all levels, since women who did not know what they were doing and were forced at all stages are not seen as having sacrificed their self-respect.

Benson argues that social relations can have an effect on women’s ability to take responsibility for their feelings, perceptions, desires, beliefs and actions. Social factors may work in such a way that they cause a moral agent to doubt her own moral capacities and thus affect that portion of her moral self-respect that consists in her sense of her worthiness to answer for her actions. Self-doubt arising from a feeling of occupying an inferior moral position because of one’s occupation was clearly discernible in some of the narratives. For example, Avantika described how after she was trafficked and decided to remain in sex work,

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28 Ibid., 75.
she felt “worthless and embarrassed.” Similarly, Chameli (whose story I outlined in the previous chapter) described how she feels unable to make her own decisions and that there is nothing in her life left to make decisions for—everything is finished.

At the same time, there is a tension between what is clearly some claim of autonomy on the part of trafficked women and the moral judgment of society. In particular, in India, only one interviewee out of thirty-four stated that she did not feel in control of her life and decisions when she decided to migrate and afterwards, in choosing to remain in the sex trade after having been trafficked. In Nepal, eight out of fifty-one interviewees described a similar feeling. All of the others had clear reasons for migrating and for making the subsequent decisions that they did. Twenty-six women in India and twenty-eight women in Nepal specifically stated that they did feel in control of their lives and decisions (including Lila and Chandra above). Given this information, the victimized, coerced female who is assumed to be the relevant subject of existing policies is untenable. Imposing victimhood and not acknowledging agency is in itself disrespectful, and this is reflected in practices such as ignoring trafficked women’s statements regarding whether they want to be removed to shelter homes and in police raids which further negatively affect trafficked women’s self-conceptions and increase their fear of social disapprobation. The tension with the feelings of lack of self-respect then, in turn, feeds into trafficked women’s ability to fully exercise their autonomy. It is to this issue that I now turn.

29 She was drugged, gang-raped and trafficked to a hotel. She was subsequently blackmailed and re-trafficked to a massage parlour. Chameli married shortly thereafter, but her husband left her for a second wife. She returned to the sex trade because she needed the income to look after her son.
30 With the exception of one interviewee from the Shelter Home in Kolkata who had been kidnapped.
(b) The Exercise of Autonomy

“[A] Witch might get a place to live but not the mother of small babies.”

I have argued above that moral condemnation of prostitution causes feelings of low self-worth and lack of self-respect among trafficked women. It is noteworthy that these feelings were not restricted to women who had been trafficked and remained in the sex trade. The high level of stigma associated with the restaurant industry and the stigma experienced by female domestic labour migrants upon return to their homes also invoked similar descriptions by these interviewees. At the general level, just as it is disrespectful to assume wholesale victimhood, it is arguably equally disrespectful to hinder trafficked women’s ability to legitimately act in accordance with their own desires and values in order to fulfill their responsibilities to themselves and others. Drawing on Mackenzie and Stoljar, this hindrance to autonomy can be broken down into two components:

(1) The development of competencies and capacities necessary for autonomy, including capacities for self-reflection, self-direction and self-knowledge.

(2) The ability of agents to act on autonomous desires or make autonomous choices.

Autonomy can be impeded at this level not just by overt restrictions on agents’ freedoms but also by social norms, institutions, practices, and relationships that effectively limit the range of significant options available to them.

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31 Nepali proverb, as told by Nivriti. Interview with author, Kathmandu, May 2010.
32 Mackenzie and Stoljar Autonomy Reconsidered, 22 (original italics).
These two ways in which autonomous agency is impeded are reflected in, and correspond to, two levels of discrimination—first, in gender discrimination more generally and second, in moral discrimination against prostitution (in the same way applied above resulting in harm to self-respect). I will discuss each of these in turn.

It is quite easy to appreciate how gender discrimination can negatively impact women’s competencies and capacities to exercise their autonomy. There are clear “gender of governance” factors for this, many of which I outlined in the previous chapter—lack of education, over-reliance on male-headed households, insufficient protection from various forms of marital trauma, lack of legal protections and sex trafficking “rehabilitation” processes. It is also important to appreciate how many of these factors begin from birth and extend across adulthood, including the process of deciding to migrate, being trafficked (or going abroad to harsh and unexpected circumstances as with the female domestic labour migrants), and afterwards, regardless of whether the woman was rescued, left sex work of her own volition or decided to remain in the sex trade. Thus, if one is not sent to school because one’s parents were too poor, one or both parents died, and/or it was the custom that girls are not sent to school but married at an early age, then one’s capacities for self-direction are already heavily curtailed.

The previous points are self-evident and perhaps already over-analyzed in existing anti-sex trafficking poverty-focused discourse. What is missing, however, is the fact that being poor, illiterate and trafficked does not destroy one’s capacity for self-reflection and self-knowledge. This is where the alternative epistemology is (once again) extremely useful. The narratives revealed that in very many cases, the curtailment of the capacity for autonomy
heightened interviewees’ perceptions of their lack of autonomy and is perhaps the explanation why the desire for autonomy figures so prominently in their articulation of their needs for their life—chief among these being independence and/or a job that would bring about independence. This perception of a lack of autonomy was expressed in a variety of ways. For example, I concluded every interview with the question “Do you have any dreams for your life?” Reshma, who works in the restaurant industry, feels as though she is in control of her life and decisions and said that she feels proud to have been born a woman. She also stated that she has no dreams, but “If I had studied, I might have had dreams.” Similarly, Usha began working in a massage parlour after her husband left her with two children. She has financial problems and she is afraid of police raids and ostracism if her relatives find out what she does. She said that she does not feel “smart or intelligent” and she thinks this is why she is facing the problems that she does now. Among the sex workers in Sonagachi who had been previously trafficked and were already in sex work for some time, there was a sense in which many opportunities for self-direction had already passed, but they were focused instead on their possibilities for autonomy in the future. For example, Sunita had finished high school with distinctions, but did not go further because her brother (the chief income earner in the family) contracted tuberculosis. She was tricked by a madam who took her to Sonagachi. Once there, the sex work was explained to her and she was not physically forced to stay. She decided to stay because her family needed the money for food and her brother’s medical treatment. A magistrate became her long-term client and built a house for her. She allowed her family to live in the house, paid for her brother’s medical treatment and paid for another brother’s education. Then her family turned on her and informed all the neighbours about her work. She was forced to sell the house because of the
resulting social discrimination and the magistrate committed suicide. She explained that as a sex worker, she had a lot less power and was forced to accept a very low price for the house. When asked about her dreams, she said that her dream had been to educate herself, get a good husband and be a good wife. Now, she just wants to grow old and live comfortably. She has used her earnings to buy land and has built another house for herself.

The feeling that the competencies and capacities for autonomy could be much higher was not confined to sex workers. The backgrounds of restaurant workers, female domestic labour migrants and sex workers (in both countries) were all similar. Thus, the analysis of autonomy applies with equal relevance. For example, Hema went to work as a domestic worker in Kuwait five months after getting married. She decided that she wanted to go earn money “for her children’s future,” and persuaded her husband to let her go. She was subject to economic exploitation—she was not paid as much as she had been promised and the bosses verbally abused her. Despite this, she did two labour contracts and helped her husband to build a small house with her earnings. She explained feeling a sense of regret in having been married at a young age and not having an education. And now that she has a small baby, she felt that the opportunity to get an education had passed. However, she still wished that she could have done so, in order to expand her possibilities for getting a job. Reshma had no children, but in the cases of Usha, Sunita and Hema, their relational descriptions of their decisions and the inextricable links to their exercise of autonomy are striking. They all illustrate how the effects of gender discrimination linger—even after migration, working and/or returning home, building a house, etc., there is a sense of being “short-changed” in terms of past/future possibilities for one’s life. Self-reflection regarding
the potential for self-direction and its curtailment because of various forms of gender discrimination make that self-knowledge all the more difficult.

Gender discrimination and discrimination against prostitution are very heavily interrelated. However, the moral discrimination against prostitution in particular has a seemingly disproportionate impact on the ability of women to act on autonomous desires or make autonomous choices (Mackenzie and Stoljar’s second conceptualization of autonomy above)—both overtly and in terms of the range of significant choices available to them. These in turn feed back into both conceptions of self-worth, and capacities and competencies for the exercise of autonomy. Paradoxically, the “3P” strategy that is the hallmark of current anti-sex trafficking efforts globally present overt restrictions on autonomy because they are based on the same moral judgment that underpins the discrimination described above. These restrictions include forced rescues and border patrol (which I will describe later in this chapter). At the same time, the related moral stigma against prostitution in and of itself not only damages self-worth, but in terms of its effects on options after migration and/or trafficking, has a negative impact on trafficked women’s competencies and capacities to exercise autonomy.

Prevention, protection and prosecution rely on a rescue and rehabilitation strategy. That is, trafficked women or women who may potentially be trafficked for sex are either rescued in transit or, more frequently, from brothels and are taken to shelter homes for rehabilitation. I outlined in the previous chapter the problematic assumptions underlying the process of rehabilitation. In particular, the process that constitutes the vindication of trafficked women’s character and reputation, coupled with the restrictions on freedom can be
detrimental to both the development of competencies and capacities to exercise autonomy and the exercise of autonomy itself. Although the stated aims of rehabilitation would, at first glance, seem to be in keeping with fostering autonomy, in practice, there is a definite tension between enabling autonomy and trying to get women away from sex work, especially as there is little meaningful consultation with trafficked women. The lack of consultation was confirmed by the Women’s Commission of West Bengal. Even here, in the body which is mandated to protect women’s human rights, while there is a concern that current approaches do not treat the typical trafficked woman as a “thinking, feeling human being,”33 sex work is not regarded as a profession that women can choose and more rigorous rehabilitation programmes are strongly encouraged. At another anti-prostitution NGO, even though it was stated that there is no moral judgment about sex work, when adult women are brought, they are not initially released. Rather, the staff attempt to persuade them to stay and be trained in another profession, to see there is “another way of life” and return to the “mainstream of society” even when a preference for sex work is stated. Sometimes they succeed and at other times they do not.34 This lack of success may be linked to the problems inherent in rehabilitation strategies that rely on training in traditional occupations such as tailoring that pay less than being a sex worker. Ironically, in some ways, rehabilitation may seem like another form of coercion. At the very least, institutional help has the tendency to err more on the side of paternalism rather than empowerment.

Rescues and other forms of police intervention have similar effects. As previously mentioned, there were a variety of emotional responses to being rescued among the ten

33 WB 5 (original emphasis). Interview with author, Kolkata, October 2009.
34 WB 2. Interview with author, Kolkata, October 2009.
young women who were residing in a shelter home when I interviewed them. Four out of the
ten had not wanted to be rescued. The other six had felt happy to be rescued. Of these six,
one was happy to be rescued because she did not like sex work, but she also said that she did
not like living in the shelter home. If a trafficked woman is happy to be rescued and is
comfortable with the decision to live in a shelter home until her case is resolved, then there is
no problem. However, the fact that at least some of these young women did not like the
shelter home and had a clear preference for remaining in the sex trade indicates at the very
least an institutional failure to take their feelings into account and a clear hindrance to their
ability to exercise their autonomy. I will use the narratives of Nalini and Ambuja to illustrate
this.

Both Nalini and Ambuja felt very angry to be rescued even after they both stated that
they had chosen to do sex work of their own free will. Nalini is an eighteen year old Nepali
woman\footnote{At the time of the interview. Nalini had been rescued less than one week prior to the interview.} and has never attended school. She ran away from home to Kathmandu to “escape
poverty,” because her family is very poor. In Kathmandu, she met a woman whom she asked
to take her to India for employment. This woman told her about sex work before they
embarked upon the journey, and Nalini agreed to go. She worked in a brothel in Mumbai for
three years before moving to West Bengal. At the time of the rescue, she had been working
in that particular brothel for seven months. She said that she earned enough for her rent, food
and clothes, and she also used to send money for her family. She also visited her family in
Nepal on several occasions, and spoke with her parents on the phone from time to time.
Nalini said that during the rescue, she told the police and NGO personnel that she did not
want to leave. She felt as though she had lost her independence and was extremely
frustrated. She drew a comparison with her time as a sex worker when she could do anything that she wanted, and said that she would rather die than continue to live in a state in which her independence was so curtailed. When I asked Nalini to describe how she felt at the time that she decided to become a sex worker in Mumbai, she said that she, like all the sex workers with whom she worked, were poor and had come of their own free will, so there was no reason to feel sad. She also said that she thought it was better to be a sex worker than to be hungry.36

Ambuja was twenty years old at the time of the interview. She never attended school because her family was too poor, and she used to spend her time doing housework and cutting grass for their cows. She had left her home in rural Nepal, with her family’s consent, to look for work in Kathmandu. At the bus stand she met a woman who befriended her and they sat together on the bus. This woman told her about the possibility of being a sex worker in Kolkata during the journey and she decided to go along to a brothel in Kolkata. Ambuja said that she was not told why she had to come to a shelter home and she was not pleased to be there. She said that the shelter home “feels like jail,” and she felt a loss of control and independence, whereas before, “I had my own life.”37

The interviewees differed greatly in their circumstances of having been rescued or not, or having remained in the sex trade or not (and to a much lesser extent, having been trafficked for sex or not since a few knew beforehand). However, this feeling of “having lost everything” captures very well the overriding need for independence and a sense of ownership over one’s own life, and the consequences when this need is unfulfilled. Twenty-

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36 Nalini, interview with author, West Bengal, October 2009.
37 Ambuja, interview with author, West Bengal, October 2009. She was part of the same rescue as Nalini.
seven interviewees in Nepal and fourteen in India stated a clear need either for independence in and of itself or for a job that would bring independence. The other major needs all stemmed from this—education for themselves or their children, house/land, and economic security in old age. Apart from overt restrictions on freedom, these needs and the inability to fulfill these needs as stated by women who had been trafficked but were now free to come and go as they pleased point to less obvious structural impediments to the exercise of autonomy. And this is why the effects of moral discrimination against prostitution must be carefully examined, in order to reveal these nuances.

Social norms, institutions, practices and relationships do limit the range of significant options available to trafficked women. For those in shelter homes, the norms and practices of rescue and rehabilitation do this and for those outside shelter homes, the high levels of stigma that limit their chances of considering other forms of employment (even when they express a desire to do so) also have the same effect. Many interviewees stated that not only a lack of education but also the stigma of having already started sex work prevents them from getting another job.38 Twenty-eight interviewees in Nepal and nineteen interviewees in India explicitly feel the effects of stigma in their lives. There is a feedback loop that links to all of the factors that affect conceptions of self-worth and the development of capacities and competencies to exercise autonomy. Thus, while gender discrimination results in very low educational attainment levels at a young age, discrimination against sex workers hinders their options later on. These options relate not only to themselves, but also to their ability to fulfill their responsibilities towards those who are dependent on them. For example, Sita, in

38 For example, Sushila and Ashwini (interviews with author, Kolkata, August 2009) and Lila (interview with author, Kathmandu, June 2010).
questioning the aim of my research, explained that neither sex workers nor their children are able to fully exercise their human rights. With regard to the children, discrimination hampers sex workers’ abilities to enrol them in school.\(^{39}\)

Both gendered social structures and attitudes regarding prostitution and women’s sexuality have significant impacts on women’s self-conceptions, the development of their competencies and capacities to exercise their autonomy, and their ability to act on autonomous desires and choices. These in turn affect their abilities to fulfill their responsibilities to those for whom they care. In so doing, current practices such as rescues and prescriptive welfare programmes are antithetical to the principles of care. I will discuss in detail later in the chapter (with reference to concrete examples of anti-sex trafficking policy) how these types of practices that reflect the equation of prostitution and sex trafficking (and stem from the associated moral stigma therein) are characterized by a failure to encourage autonomous competency skills, the construction of “protective” measures in which certain options are excluded after rescues take place, and discouraging/penalizing certain activities. The challenge then, is to merge the contextual approach to understanding relational autonomy with a policy approach in which all three aspects of autonomy (perceptions of self-worth; the development of competencies and capacities to exercise autonomy; and the ability to act upon autonomous choices) are enabled.

\(^{39}\) Sita wanted to know what my research would accomplish, given that this was a daily reality for her (interview with author, Kolkata, August 2009).
(ii) Communities of Judgment

Anti-sex trafficking policies at the national, regional and international levels structure relations that impede the development and exercise of trafficked women’s autonomy through practices such as rescues, border patrols and paternalistic rehabilitation strategies. The root of the problem is a judgment— the problem of sex trafficking has become obscured by a judgment that prostitution constitutes a violation of women’s human rights. This judgment is intricately related to the concrete effects of the stigma that trafficked women experience, and this, in turn, further limits the exercise of autonomy. Yet, if trafficked women had the capacity and competencies to exercise autonomy—a process that should begin long before decisions to migrate are made—then sex trafficking would arguably diminish. This is independent of any judgment regarding prostitution or indeed, migration. And any decision to migrate would become a natural part of the exercise of autonomy. In terms of providing care for those who have been trafficked, attempting to fit women into a pre-existing moral template for re-entry into society or continued discrimination against those who choose to remain are logical extensions of the judgment and not characteristic of responsiveness to the needs of the subjects of governance policy.

The current “3P” approach is the most concrete manifestation of the judgment against prostitution. On the law-enforcement side of the anti-sex trafficking industry, I encountered little enthusiasm for the kind of deep contextual understanding that the ethic of care envisages. There was a clear feeling that it was difficult to decide on an appropriate time to do consultations after rescues, and that uneducated women may not always make the best

40 I will discuss border patrols and paternalistic rehabilitation strategies in more detail later in the chapter.
choices for themselves because of a lack of awareness.\textsuperscript{41} All of the elites I interviewed in law enforcement and UN-affiliated bodies viewed an increase in administrative capacity and more effective implementation of existing policies as necessary for eradicating sex trafficking. While this may be true, it misses the more important point that it is unethical to design and implement policies that assign stereotypes to particular groups of women. Poverty and illiteracy should not be markers of an inability to make the best decision for oneself, and the narratives of the trafficked women demonstrate the opposite (as my discussion of self-knowledge above demonstrates).

“\textquote{It is very easy to fall into the trap of binary thinking. You are not accepting the fact that you are actually living in a very complex and complicated world. So, also in the West they say people are doing this because they live in abject poverty. No, they may be living in abject poverty— what seems to you to be abject poverty— but they may not be abject.\textsuperscript{42}}”

The trap of binary thinking that has become manifested in the voluntary/forced dichotomy echoes with problems such as perceptions of bad decisions made because of a lack of \textquote{choice}, lack of consultation, and rehabilitation. In order to overcome this binary thinking that gives rise to the dichotomy of the innocent/forced victim and the guilty/voluntary sex worker, it is necessary to de-link sex trafficking from prostitution. While to do so entirely is impossible, given the evidence (including my own) that many trafficked women do stay on as voluntary sex workers, the policy should not be confused. For example, the current proposed amendments to the ITPA have much to do with prostitution and little to do with sex trafficking. These include making it illegal to run a

\textsuperscript{41} ND 1. Interview with author, New Delhi, August 2009.
\textsuperscript{42} ND 7. Interview with author, New Delhi, August 2009.
brothel and live off the earnings of prostitution. Attempts to criminalize clients or sex workers undermine the autonomy of sex workers, women who intend to migrate to work in the sex industry, and even women who were trafficked into the sex industry and choose to remain. It is also unclear how criminalization would help women who were violently forced and desire to leave the sex industry, or prevent sex trafficking in the first place, since prostitution is currently treated as a criminal offence and neither aim has been achieved. Instead, it perpetuates the moral discrimination that has detrimental effects on autonomy.

It has been the most difficult part of my dissertation so far to conceptualize how exactly to connect the prescriptive analysis that flows from an ethic of care approach with concrete policy recommendations. However, the critical moral ethnography revealed some unique relationships among trafficked women that may provide one way in which this can be accomplished. These relationships can be captured via the concept of “communities of judgement” as sites where moral knowledge is generated and might be learnt, and as sites where autonomy might be enabled. The relationships that are characteristic of these communities of judgment are those that can foster, rather than hinder, the value of autonomy. I will explain the concept of communities of judgment and then return to the ethnography to illustrate examples of it in both India and Nepal. I will then put forward some tentative considerations of how communities of judgment might fit into national anti-sex trafficking policy and be connected to international anti-sex trafficking policy.

Jennifer Nedelsky developed the concept of communities of judgment drawing on Hannah Arendt’s view that “judgment relies on a ‘common sense’ shared by those who are

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43 Many sex workers I interviewed (who had been trafficked) raised strenuous objections to this amendment because they argue that it would make it even more difficult for them to use their earnings to pay for the children’s education.
members of a community of judging subjects.”  In other words, judgment is not universally valid in the classical Kantian sense. Rather, judgments gain validity because they are rooted in a relevant, real and living community of judging subjects who share a “common sense,” and the process of judging demands that the standpoints of others in the community are taken into account. Judgments that arise out of the community remain both subjective and valid precisely because they arise out of taking the perspective of others in a shared community, as opposed to being based in “universally-shared cognitive faculties.” The affinities with an ethic of care are clear. The methodology of care ethics is based on the “interpersonal viewpoint,” yet there is little to no guidance for how this might be achieved. Utilizing communities of judgment that may already be naturally contained within the relevant contexts may be one way of doing so. The context of the community can provide a space where all voices can be heard, without being subject to a priori moral determinations of right and wrong which act as a test of the validity of the perspective. While this may seem very contextual, individuals within communities are well-placed to gather moral knowledge and help to inform policy at a more general level.

At the start of my project, I tried valiantly to resist placing myself into the anti or pro-sex work camps, and I acknowledge that I will never be truly objective. However, as I went deeper into my fieldwork, it became apparent that while the pro-sex work lobbyists are not necessarily excluded (or at least completely silenced) in international debates, if one goes to the level below the international pro-sex work voices—that is, to the voices of those who have been trafficked but found a place for themselves (whether temporary or permanent) as

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44 Nedelsky Communities of Judgment and Human Rights, 4.
45 Ibid., 4-6.
part of a community of sex workers—a particular structure is clearly visible. That is, anti-
sex work activists form a much larger and certainly more dominant community of judgment
that spans the national and international levels. The judgment of this community has come to
be applied to all trafficked women and indeed all sex workers (whether trafficked or not).
With a judgment that casts a potentially global net, it seems that it should be logical to take
alternative communities of judgment into account, particularly as it is the case (even in my
sample) that many trafficked women remain in the sex trade, and at least some of those who
are rescued either run away from shelter homes or stay unwillingly. These alternative
communities may or may not have a formal structure, but they do exist and they have their
own “common sense.” I will examine three such structures in detail below: two with a
formal structure and one without.

(a) Durbar Mahila Samanwaya Committee (DMSC)

DMSC is an informal trade union of sex workers in Sonagachi, Kolkata, and any sex
worker may be a member.46 Their activities include health clinics, education classes for sex
workers and their children, micro-credit, and opportunities to learn and participate in its
cultural wing. They are an active community with links throughout the red light area of
Sonagachi and thirty-two other red light districts of West Bengal. The most interesting

46 This includes male, female and transgender sex workers. The Government of India has refused to grant them legal status
as a trade union.
activity of this community with regard to my project is its Self-Regulatory Board.\textsuperscript{47} The SRB has the following stated objectives: preventing the trafficking of women and girls into the sex trade; lobbying and advocacy to change what it perceives to be inefficient laws controlling sex work, such as the ITPA; preventing exploitation in the sex trade; and carrying out social welfare measures for sex workers and their children (for example, helping to open bank accounts/participating in DMSC’s co-operative bank, acquiring voter identity cards, and helping with alternative jobs if a woman wants to leave sex work). The Board is comprised of sex workers and representatives from the community including the Member of Parliament for the red light area of Sonagachi, doctors, lawyers, and social workers.\textsuperscript{48} DMSC has field workers (who are also sex workers) called “peer educators.” Some of the functions of these peer educators include going into the red light areas, educating sex workers and madams about sex trafficking, and bringing any new sex workers to the attention of the SRB. Members of the SRB verify that the woman is at least eighteen years old and that she has decided to become a sex worker of her own volition. Once these conditions are met, she is given peer counselling on the potential benefits and drawbacks, and left to decide whether she wants to do the sex work. If she is less than eighteen years old and/or if she has been forced in any way, the SRB makes arrangements to take her back home or go to a government home if her own home is unsafe.\textsuperscript{49} In either case, women have access to services such as health clinics and basic education classes.

The SRB model is not without its drawbacks. For example, one could make the case that since some girls under the age of eighteen have already been married, had children, have

\textsuperscript{47} Hereafter SRB.

\textsuperscript{48} Self-Regulatory Board: Lessons Learnt From DMSC (Kolkata: Durbar Prakashani, 2007).

\textsuperscript{49} For example, if her parents refuse to take her back or if she will face significant moral discrimination.
been subjected to domestic violence, migrated and trafficked, that they should therefore be allowed to decide what they want to do rather than be automatically sent back. However, I shall leave this issue aside and note that for the *adults*, it is a model that provides a level of care without any accompanying paternalism— in other words, a bearable resolution to a complicated moral bind. It is noteworthy that this approach is very localized and carried out by those who can identify very closely with the experiences of trafficked women. It helps to prevent trafficking since the collective is active in thirty-three red light areas of West Bengal, and it is now a matter of course for madams to bring new sex workers to the SRB before the latter begin work. In cases where a madam is reluctant or does not want to co-operate with the SRB, peer educators are dispatched to go have a chat with the madam and persuade her. In the rare cases in which this strategy of public peer pressure does not work, the peer educators liaise with the police to bring the relevant sex worker to the SRB to verify that she is an adult and is not being forced. It is noteworthy that in the case of adult women, coming before the SRB does not preclude freedom of choice in the way that rescues and shelter homes do. The strategy also helps to undo some of the harms of sex trafficking (such as trauma and feelings of lack of self-worth) without the accompanying damage that is inflicted on all sex workers by moral judgments against prostitution. Interestingly, even some who believe that prostitution is immoral also view the SRB in a positive light, as an Inspector in the Immoral Traffic Unit of the Kolkata Police Force observed, “I get a lot of help from DMSC. They do not allow children in prostitution there...If more people were more proactive like DMSC in Kolkata, it would be better. They are the main people who can
really stop trafficking because they are staying there. They can get the information faster than us. They can work faster than us. They can move better than us.”50

In addition to this formal role, DMSC provides a forum whereby trafficked women are able to participate in dialogue within a community of others like themselves who understand their experiences. I referred in the previous chapter to Shobha, who became a sex worker after years of sexual harassment and rape. She did not finish school because of family poverty. She became a tutor and the uncle of her student proposed to her. However, her family opposed the marriage because they were Brahmin and the uncle was of a lower caste. As a result, Shobha eloped and the man became her husband. He began beating her after he came under pressure from his family for Shobha to keep purdah51 and she refused. She left him but her own family did not provide any support because she had brought shame to them by virtue of her inter-caste marriage. She worked as a nurses’ assistant for a short period before joining a theatre group as a performer because the salary was higher. The owner of the theatre group persistently harassed her and eventually raped her when she refused to have sex with him. She was told by the police that the case would not be recorded because she had no witnesses. She joined another theatre group and when she was raped again, she did not bother to report it to the police. In her various theatre jobs, she was often sexually harassed and her salary was cut or withheld if she refused sex. A friend told her about the possibility of doing flying sex work52 and she eventually shifted into sex work full time.53

50 WB 3, interview with author, West Bengal, September 2009.
51 The Hindu or Muslim practice of sex segregation. Currently, it is most frequently practiced by keeping women in seclusion.
52 A flying sex worker is one who is not based in a brothel. Clients are met in hotels.
53 As I explained in Chapter Two, her rationale for doing so was far from the usual stories of being tricked. She explained, “When I was raped, I felt horrible. I felt like a fallen woman, and felt angry at men for all the sexual harassment. I felt as if they had spoilt me. So I thought I would in turn spoil them by becoming a flying sex worker.” Interview with author,
She became involved with DMSC sometime after this and became a peer educator. She explained to me that she loves working with DMSC. Prior to joining, hoodlums would often steal her money or policemen would come as clients and refuse to pay. Now, being a DMSC worker has helped her to become assertive and to gain confidence, and she is no longer harassed in these ways. She also felt that working with sex workers has helped her to deal with the anger and shame of her experiences, especially since she has faced a lot of stigma from society. Overall, she felt that it has helped her to overcome the trauma that she used to feel as a result of her experiences. A similar sentiment was shared by Sita, who said that “With DMSC, we are now getting some respect and recognition.” Indeed, the SRB itself is evidence of the importance of autonomy to sex workers, including many who were trafficked and also participate in its functioning. One such trafficked woman observed, “Those who are anti-sex work think that sex workers cannot do anything besides sex work. DMSC has proven that sex workers can run a successful intervention program in the form of an anti-trafficking programme.”

Kolkata, August 2009. As mentioned previously, a “flying sex worker” is not based in a brothel, but does sex work out of a hotel.

54 Other sex workers (e.g., Sita) referred to the fact that DMSC has helped reduce exploitation of sex workers by pimps and madams. Interview with author, Kolkata, August 2009.

55 Sita. Interview with author, Kolkata, August 2009.

56 Shakuntala. Interview with author, Kolkata, August 2009.
(b) Massage parlour workers

The women who work in massage parlours in Thamel, Kathmandu do not have a formal organization or other similar structure to which they belong. However, their narratives revealed a strong sense of shared understanding of what they have faced before joining the sex trade through various means and what they continue to face on a daily basis. Lekha, in describing to me the challenges which sex workers face, asserted, “People should not comment on other’s jobs if they are unable to provide alternatives.” This captures in large part the decision-making process that links the grey area between having been trafficked and deciding to remain once the opportunity to leave presents itself. Many interviewees talked not only about themselves but about others like them who had been abused or abandoned by husbands, have children or many family members to support, or had even been sent by poor parents who knew what the work entailed. For example, Jamuna mentioned knowing many sex workers who supported at least ten family members with one salary, and she wondered what would happen to them if massage parlours were closed. In addition, the shared experiences of stigma and problems with law enforcement officials also create common bonds between women. For example, Ojal described how poor women like herself and other sex workers based in massage parlours bear the brunt of police raids and arrests, and the accompanying shame, while high-class escorts have no such trouble because they have transport and go to hotels.

57 Some, but not all, avail themselves of the services of an NGO called Change Nepal in the area. These services include a drop-in center, health and counselling services and education classes.
58 Lekha. Interview with author, Kathmandu, July 2010.
59 Avantika, Hansika, and Ojal also echoed these sentiments. Interviews with author, Kathmandu, June 2010.
Communities of judgment might be not only alternative spaces of deliberation, but they can also be sites that enhance women’s self-worth and in so doing, help them to develop the competencies and capacities necessary to exercise their autonomy to its fullest extent. DMSC helped to play such a self-worth function in the case of Shobha (described above). Even without an organized structure in Thamel, the informal community of sex workers fulfills some roles that are not obvious at first glance. For example, madams often occupy the role of pseudo-relatives for sex workers— in paying for hospital treatments and encouraging the women to save money. Perhaps more importantly, some women felt that their experiences of having come to the massage parlours and worked, while not necessarily enjoyable, have helped them to deal with a wide variety of life circumstances. I shall use the cases of Atreyi and Vedika to illustrate this.

Atreyi left school after her father died because her mother could no longer afford to send her. A friend promised to help her get a “good job” in Kathmandu, and she was brought to a massage parlour. She wanted to go back home but she was forced to stay. She was deprived of food in order to force her to start working. After a while when she did have a choice to leave, she decided to stay because she did not have any other means of earning money and she also wanted to help her family financially. She does not like sex work and used to think that she is very unfortunate because she has to have sex with many men, even young boys and very old men. She feels that society discriminates against her because she is “like a married woman but not yet married.” She also feels that she does not want to get married anymore because she is no longer a virgin. Despite all of this, she described how

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60 I received this information from Change Nepal, an NGO that works with massage parlour workers in Kathmandu.
61 Tripti. Interview with author, Kathmandu, June 2010.
when she first started sex work, she felt innocent. The massage parlour owner would force her to take clients even if she did not want them, and some clients forced her to do things that she did not want to do. However, she affirmed that now she feels much smarter, knows more about life and feels that she can handle anyone.

Vedika had an arranged marriage at the age of seventeen, and she had one child. Her husband was an alcoholic and he never worked or helped to look after the family. She eventually divorced him, left her child in the care of her parents and came to Kathmandu to search for work. She worked as a maid in a hotel at first, but then a friend, who was a massage parlour owner, offered her a job, telling her that she would do pure massage only. However, when she came to work on the first day, she learnt that she was expected to do sex work. She decided to do it because the hotel maid’s salary was very low, she was uneducated and her options were very limited. She does not like sex work and would like to have another job— “anything besides massage parlour work.” She feels that it is not a good job because people gossip about it, and she is afraid that her relatives will find out. She said that she only does it “to fulfill her basic needs.” However, she feels that she was and continues to be in control of all her decisions in life. She thinks that she was not smart at the time of her arranged marriage. If she had been smart, she would not have had a child with her alcoholic husband. At the time of her divorce, she did not feel confident nor did she have a clear sense of what to do to earn enough money, but after she started working in the massage parlour, she feels that she became smarter and more confident.

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Both narratives illustrate many of the factors that affect self-conceptions and the development of competencies and capacities to exercise autonomy—low levels of education, different kinds of gender discrimination (child marriage, continued stigma in sex work, etc.), and feelings of limited choices, knowledge and life experience at the time of trafficking. Yet, while the massage parlour was and continued to be a site of oppression (since both women were trafficked and neither was happy as sex workers), it was also a site of learning and, to some extent, empowerment. My intention is not to argue that massage parlours are wonderful places. However, they are useful sites of knowledge about women’s lives, the potential for common self-understandings, and the ways in which women resist “victimhood” status and attempt to control their fates. Both the exercise of autonomy and the desire for more autonomy are evident.

(c) Restaurant Workers

In the previous chapter, I discussed the case of Neha who felt that her work as a dancer in a restaurant and the relationships she developed with her co-workers helped her to overcome the trauma and sorrow caused by the death of her two young children. In an entirely different context, Nagina came to Kathmandu to work at the age of thirteen. Her first job was at a carpet factory from 5 am to 11 pm every day. During this time, she was tricked by an aunt, taken to the aunt’s house, and forced to marry her cousin. She felt that she could not do anything about it because it would have had a negative effect on her

63 Indeed, I feel unqualified to make a judgment either way.
family’s prestige. Her husband was an alcoholic and often beat her, and her mother-in-law verbally abused her. Her husband also threatened to get a second wife because she was having trouble conceiving. After visiting a “witch doctor,” she conceived and had a daughter. She resisted leaving her husband at first because of the potential stigma, but finally left after he continued to beat her. Some friends then introduced her to restaurant work. Nagina feels that she has learnt a lot from her own experiences and her relationships with other restaurant workers, as she explained, “In the restaurant, we have to face a lot of things which others do not understand.”64 In terms of her own life, she described how when she was first married, she did not feel in control of her life, only fear. When she spoke to her in-laws or even young children, she always felt afraid. Following this, when she started working in the restaurant, she sometimes experienced sexual harassment from customers. However, now she feels that she has overcome all her fears and has developed a lot of confidence. She is able to handle customers and no longer faces sexual harassment. While she does not feel that working in a restaurant is as bad as society thinks, she needs a new job because only young women can work there. She wants a job that would give her independence and also allow her to show her in-laws that she is capable of doing something worthwhile with her life.

As in the previous examples of the massage parlour workers, this example of a restaurant worker also demonstrates the simultaneous feelings of the repression of autonomy by various factors and a pushing back and attempt to exercise autonomy. This tension was typical of restaurant workers, particularly those who had become a part of an NGO in Kathmandu called Biswas Nepal that was specifically set up to work towards the

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64 Nagina, interview with author, Kathmandu, June, 2010.
achievement of labour rights for restaurant workers. There was a strong feeling of community among those restaurant workers I interviewed. They were all concerned with improving the working conditions of restaurant workers and, interestingly, increasing the level of respect accorded by society to restaurant workers. As with sex work, there is a significant impact on self-conceptions at the collective level.

All three examples of communities of judgments— sex workers in Sonagachi, massage parlour workers and restaurant workers in Kathmandu— act as spaces where women are, in effect, able to think for themselves and express themselves without fear of a negative external judgment. This is not to deny that there are significant restrictions on their capacities to subsequently act on those thoughts. For example, it is very difficult for the typical sex worker in a massage parlour in Kathmandu to exit the sex trade into a profession that would pay her equally well. This is the very reason that many trafficked women choose to remain in the sex trade. However, the fact that women do derive benefits from participating in the structures of these communities is significant, particularly with regard to the process of re-defining their conceptions of themselves after having been trafficked and/or entering a profession characterized by extremely high levels of stigma. As existing examples, these communities of judgment provide valuable lessons in how relational autonomy might be fostered at the policy level. I will discuss this below in the context of autonomous reconstitution, making links to local and international anti-sex trafficking policy.
(iii) Towards “caring” anti-sex trafficking policy?

There is a sense in which anti-sex trafficking policy does not “care” at two levels—first, it does not care about incorporating the judgments of those who are actually its subjects, and second, it fails to respond to the needs of trafficked women. In not doing the first, the second is very likely to follow. The UNTP and the SAARC Convention assumes “generalized others.” In reality, neither sex workers nor trafficked women (and these two groups overlap significantly) speak with one homogenous voice. Both the narratives and the different examples of communities of judgment illustrate this. While it is clear that trafficked women—regardless of whether they remain in the sex trade by choice or coercion, or leave altogether—experience very high and varying kinds of trauma, many of them also do not fit the innocent/forced victim stereotype. The business of sex work is itself internally segregated and all sex workers are not one.65 Similarly, the alternative epistemology of the critical moral ethnography demonstrated that sex trafficking experiences vastly differ and not all trafficked women are one. This is why communication is crucial. However, “poor women are rarely consulted for anything. So why should they be consulted about sex work?”66

From a care perspective, there are very good reasons why women should be consulted and these need not be seen as completely alien from what global governance policy is meant to represent. If we continue, as governance theorists do, to take global governance to mean “mechanisms for steering social systems towards their goals,”67 we must first define our goals in terms of anti-sex trafficking policy and the mechanisms by which we intend to

65 ND 3. Interview with author, New Delhi, August 2009.
66 ND 9. Interview with author, New Delhi, August 2009.
67 Rosenau Towards an Ontology for Global Governance, 296.
achieve them. I have argued that an achievable goal guided by an ethic of care could be the ideal of fostering much higher levels of autonomy for trafficked women. The mechanism for arriving here is already contained in the alternate epistemology—gathering moral knowledge, or the ways in which moral agents “search for shareable interpretations of their responsibilities and/or bearable resolutions to their moral binds.” And one tool via which this mechanism can be deployed might be the possibilities offered by local and contextual communities of judgment. Nedelsky points out that “It is only by temporary exclusion of the dominant group that the subordinated can create spaces for deliberation and exchange in which their own ‘common sense’ can emerge and provide a basis for judgment.”

Excluding the judgment of those who wield power, even temporarily? This is a very different way of theorizing the role of global governance policy in International Relations, but one which is necessary. As it stands, those who wield the power also steer the social system, and the goal with regard to sex trafficking has become blurred. Thus, the social system that is the anti-sex trafficking regime is being steered towards the goal of ending prostitution in order to end sex trafficking. In so doing, the goals of caring for trafficked women and preventing sex trafficking become almost secondary. The subjects of this governance policy are, in fact, “the subordinated.” It is the subordinated who can provide the most insight into the relevant goals and they need a space to be heard in order to make policy relevant.

Global governance policy is a power relation that demands ethical appraisal. Clearly, trafficked women wield less power (some of them explicitly said so) than those who

68 Urban Walker Moral Understanding, 144.
69 Nedelsky Communities of Judgment, 8.
influence the design of policy at the national, regional and international levels. A relational analysis reveals how the current configuration of this power relation yields a judgment against prostitution that is, at least in some cases, detrimental to trafficked women’s autonomy. The problem is that it is a judgment by one large and powerful community of judgment that is purported to be valid for a number of different communities of judgment. It may certainly be the case that many women who are trafficked for sex agree with the tenets of the standard anti-prostitution position. However, not all of them do, and reality is much more complicated. The effect is that some subjects of governance policy are deemed incapable or somehow morally unworthy to decide what is best for themselves. In so doing, the implication is that they lack the ability to take responsibility for themselves and dependent others.

I asked each trafficked woman what she thought the Government (of India or Nepal) and the international community should do to prevent sex trafficking. The majority who answered this question suggested that women should have more opportunities available to them, such as education and jobs. Many of the sex workers in both countries wanted sex work to be decriminalized and recognized as a profession. This desire was closely linked to sex workers’ ability to live and work as they choose, as one woman described, “When girls are trafficked...they [law enforcement and NGOs] should...know about her feelings, her willingness, and her feelings should be respected...there should be a network of CBOs, NGOs...

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70 A few of the younger Nepali respondents said that they did not know.
and law enforcement who counsel the girls [migrants] and find out the real problem, rather than harm her.”

Autonomy, understood in a relational sense, is key.

C. Autonomous Reconstitution

In directing policy towards fostering autonomy, there is a fine line to be trod between understandings of the self as both individually and socially constituted. Linda Barclay made the general observation that feminist theory has made a significant contribution in suggesting that since “we are in fact selves characterized as much by our capacity for care and concern for others as by our self-interest, we need moral and political theories that are shaped according to this fact.”

This duality underscores the need for relational-inspired policies. With regard to sex trafficking, care must be taken to avoid the assumption that women are always passive victims of circumstance. While some degree of social constitution must be assumed, “the autonomous person is not a passive receptacle of these forces but reflectively engages with them to participate in shaping a life for herself.”

This was confirmed by the critical moral ethnography, and I have explained how it is not acknowledged and incorporated into rescue and rehabilitation strategies. The reality of reflective engagement must be linked to the gender of governance and governance of gender factors that make up the context of anti-sex trafficking policy. A clear understanding of the complex relationships between all three—the process of reflective engagement and the exercise of autonomy, the gender of governance and the governance of gender—is necessary for the articulation of

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73 Ibid., 55.
transformational policy. I will focus on governance of gender factors since these are directly relevant to how national and international policy must be changed in order to enable trafficked women’s autonomy. I will then discuss gender of governance factors in the context of communities of judgment, and the ways in which the latter might be utilized at the local level to mitigate some of the effects of social structures that negatively affect women (absent a complete dismantling of patriarchal social structures that place women at a disadvantage in social, political and economic life).

When understood in relational terms, the form of social determinism can have a positive or negative effect on both the development of competencies to exercise autonomy and the ability to exercise autonomy in the face of a given set of options.\textsuperscript{74} With regard to female migration, sex trafficking and sex work (that may continue after the act of trafficking), the “governance of gender” effects are generally negative throughout the various stages of the process (the same argument might be applied to the context of migration for domestic work in the Middle East). Anti-sex trafficking policy that has been shaped by certain attitudes towards prostitution and women’s sexuality has resulted in three general negative effects— (1) the failure to encourage autonomous competency skills; (2) constructing options so that certain options are excluded after rescues take place; and (3) discouraging or penalizing certain activities.\textsuperscript{75}

Upon closer inspection, these negative effects of anti-sex trafficking policies at the international, regional and national levels have become buried under the discourse of

\textsuperscript{74} Ibid., 56.
protecting women’s human rights. The language of rights is invoked to justify a philosophical position against prostitution in anti-sex trafficking policy debate, activism and implementation. The argument is, therefore, that protecting women’s human rights involves the removal of prostitution as a trade and as an option for employment, both of which would also end sex trafficking. In Chapter One on the ethic of care, I argued that a care approach can help to overcome the contestation that arises from differing interpretations of women’s human rights in the context of sex trafficking. Adding the layer of relational autonomy as the goal of an ethic of care in this project makes the limitations of the attempt to define women’s human rights by reference to prostitution and the resulting “3Ps” of anti-sex trafficking policy much more evident. Prevention, protection and prosecution considered outside of the realities of trafficked women’s lives ignore the relationships which have an influence on the decisions they make. It is also the reason why existing anti-sex trafficking policies enable further human rights violations. These limitations, in turn, underpin the three negative effects listed above and result in the hindrances to autonomy that I discussed in the previous section: (1) trafficked women’s self-conceptions (2) their competencies and capacities to exercise autonomy and (3) their ability to make autonomous choices. I will elaborate on this below.

Drawing on the work of Benhabib and Cornell, Barclay (2000) argues that while a feminist analysis of many different issues might begin with the situated self, it is the renegotiation of women’s psychosexual identities and the autonomous reconstitution of these identities that are essential to women’s liberation.76 “Psychosexual” is defined as “of or

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76 Barclay Autonomy and the Social Self, 67 (italics added).
relating to the mental or emotional attitudes about sexuality.”  

These processes assume great importance with regard to sex trafficking. All of the categories of female migrants I interviewed described experiences which captured this renegotiation. Even for those who were not trafficked explicitly for sex at the outset, the stigma attached to the act of migration itself made this renegotiation necessary, both in terms of employment-related decisions and decisions about whether to return home. As might be expected, this renegotiation differed among women. This was amply demonstrated in the results of the critical moral ethnography. For example, as the narratives illustrated, many women felt in control of the decisions they made while at the same time feeling a lack of self-worth because of the nature of their job; others felt in complete control and were angry about the discrimination; and yet others felt that while they may not like their jobs, they had come to accept it because of a need for income and that people in society should not judge their decisions, as one interviewee stated, “Money is money and society is hypocritical.”  

In a sense, the very nature of the trafficking process forces these kinds of renegotiations. Women leave home with certain expectations that in most cases turn out to be false. However, their core needs (for themselves and with regard to those with whom they share significant relationships, such as children) often cause them to re-think what they may or may not be prepared to do. With regard to sex trafficking and sex work more broadly, this process is intricately tied to their psychosexual identities. The critical moral ethnography showed that the result can fall anywhere along a very wide spectrum but with the commonality of reflective engagement.

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78 Sex workers, restaurant workers and domestic labour migrants.
79 Ameela. Interview with author, Kolkata, August 2009.
The relational approach to autonomy is premised on the fact that autonomy is both individually and socially constituted. In this case, anti-sex trafficking policy forms a very large part of that social constitution. In their present form, the policies and their associated practices hinder autonomous reconstitution because as a form of negative social determinism, their effects (the failure to encourage autonomous competency skills, constructing options so that certain options are excluded after rescues take place and discouraging or penalizing certain activities) structure the oppressive relationship between the international community and trafficked women and impede the latter’s exercise of autonomy. Autonomous reconstitution takes place to some degree and trafficked women do undeniably exercise their autonomy. However, the evidence of the critical moral ethnography suggests that their self-conceptions, competencies/capacities to exercise autonomy, and the ability to make autonomous choices remain below potential.

Anti-sex trafficking policy is a form of social constitution in terms of its effects on trafficked women’s lives and their ability to exercise their autonomy. However, instead of allowing for autonomous reconstitution in the process of migration, as they now stand, the policies at all levels assume shared ends among all the various external stakeholders without prioritizing the needs of trafficked women. The result is that instead of fostering the process of autonomous reconstitution with a view to enhancing capacities for self-direction, the social stigma against prostitution and practices such as rescues, border patrol and prescriptive rehabilitative programmes (to be discussed below) mask a forced socially determined reconstitution which affect trafficked women’s self-conceptions and act as hindrances to their exercise of autonomy. Amidst the concerted efforts to address sex trafficking and prostitution at the same time, the right to migrate and the right to choose one’s form of
employment recede into the background. These rights are an integral part of the process of autonomous reconstitution. Paradoxically, when autonomous reconstitution is hindered in the process of protecting women’s human rights, so too is the exercise of the rights that the relevant practices are meant to protect. The attempt to fashion a previously tricked but now rehabilitated woman in many cases constitutes an oppressive identity for trafficked women and even some female migrants who were not trafficked. This is evident in both NGO practice and at the three levels of policy (local, regional and international). I will look at each of these and their interrelationships below, outline what exactly autonomous reconstitution means in the context of sex trafficking, and describe the prescriptions that would follow from such an approach. I will then return to a more detailed analysis of the concept of communities of judgment, and show how they might satisfy many of the requirements of anti-sex trafficking policy in accordance with the tenets of the ethic of care. I will conclude with an analysis of the United Nations Trafficking Protocol and the implications of relational autonomy in general and autonomous reconstitution in particular for policy at the international level.

(i) Regional and local anti-sex trafficking policy

I have argued that the regional SAARC Convention, the ITPA in India and the Nepal Control Act all focus on rescue, rehabilitation and reintegration as the basis for policy prescription. Not only is this evident in the text of the documents themselves but perhaps more importantly, it is evident in the draft plans and analyses that informed the construction
Female migration is subtly discouraged and recommendations are geared towards its control. Prostitution is actively discouraged or penalized and as a result, the recommendations regarding sex trafficking are often contradictory. This is because prostitution is not criminalized in either country but, as I argued in the Introduction, in practice it is treated as a criminal offence with a view towards ending sex trafficking since, according to an official in the Anti-Human Trafficking Unit of West Bengal, “Without a doubt, criminalizing prostitution will stop sex trafficking.” In all cases, women and girls are treated as one category. The Draft National Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women (India) illustrates all of these points in its opening assertion that “The ultimate objective of the Integrated Plan of Action is to mainstream and reintegrate all victims of trafficking in society.” Since both the Nepali and Indian policies share these similarities, I will look at both countries together below with regard to female migration in general, rescue and rehabilitation.

The subtle injunctions against female migration are perhaps simultaneously the most surprising and damaging characteristics of anti-sex trafficking policy. This is evident both in the policy documents themselves and in the general philosophy that if women have work in the villages, then they would not need to leave. There is a tension in policies in both countries between an acceptance of patriarchal social customs as damaging women’s potential and an almost derogatory description of the reasons why women might choose to

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80 In the case of India, it is an ongoing process as the Indian Government tries to update the 1956 ITPA.
81 WB 9. Interview with author, West Bengal, October 2009.
83 Since reintegration mostly falls under the purview of NGOs (and is explicitly stated as such in the laws of both countries), I will deal with it later in this context. The same applies for rehabilitation, but since much more is said regarding this process in the policies themselves, I also include it in this section.
migrate. For example, in Nepal, while authorities accept that a rigid patriarchal system subordinates women, the result of this is taken to be that women become vulnerable to violence and trafficking “in search of bright opportunities.”\textsuperscript{84} Similarly, in India, the existence of trafficking is ascribed to factors such as “poverty, dysfunctional family life, poor educational background and easy money”\textsuperscript{85} as well as increasing migration and “the lure of easy money/consumerism.”\textsuperscript{86} The moral judgment that it is wrong to migrate and run the risk of ending up in prostitution for the sake of earning a lot of money (or at least, comparatively more than one might earn in one’s home village) was also present in my own interview data from the Kolkata Police. The interviewee described how the Immoral Traffic Unit often comes across girls who were trafficked from Nepal or parts of India but then became “seduced” by the ability to eat different food and access different goods. The interviewee further asserted that these things break her “inhibition and shame” against engaging in sex work. In the end, “girls are not easily inclined to sell their sex...The first inhibition is there, but once it is done the way is very smooth— they go down and down.”\textsuperscript{87} In a sense, it is as if the category of “consumerism” has been created to account for deviations from the moral norm. Given that these very policy documents also state that the majority of women who are trafficked are not only poor but tend to be disproportionately widowed, divorced, separated, abandoned and/or abused,\textsuperscript{88} these assumptions are problematic and contradictory.

\textsuperscript{86} Ministry of Human Resource Development and Department of Women and Children, \textit{Trafficking of Women and Children in India: Challenges and Responses} (Government of India, 2004), 5 (italics added).
\textsuperscript{87} WB 4. Interview with author, Kolkata, September 2009.
\textsuperscript{88} As I also found to be the case in my own data.
The tendency towards the creation of categories to account for unacceptable decisions is also present in the phenomenon of “re-trafficking” as a method of explaining the actions of those who have not been properly rehabilitated. I explained in Chapter Two how this term is used by NGOs to explain any subsequent returns to the sex trade after the process of trafficking, with the implication that it is always forced. This terminology is also employed in policy, and re-trafficking is linked quite emphatically to the failure of rehabilitation. For example, in a survey of 561 women in twelve states in India who were “survivors of commercial sexual exploitation” and currently staying in shelter homes (having been rescued from brothels), 43.8% did not know the reason why they were in a rescue home. Of the total number of women, 24.2% had been there for more than one year. The study goes on to state that as many as 145 respondents had been “provisionally rescued,” that is, they were taken to rescue homes, shown in records as having been rehabilitated, “yet they had to be rescued again. In other words, these ‘survivors’ were victims of re-trafficking.”89 Similarly, at the local level in West Bengal, the main government report states that the rate of “re-trafficking among survivors” is as high as 57%.90

The general result of the rescue, rehabilitation and reintegration strategy has been that anti-sex trafficking policies are contradictory with regard to their stated goals. Without exception, every policy document states that it is necessary to empower women in order to end sex trafficking and respect women’s human rights. Empowerment in this context normally means addressing poverty, education, training for certain livelihoods, and the ability to return home. These all collectively fall under the heading of “rehabilitation.” The

89 Nair, A Report on Trafficking in Women and Children in India, 84 (italics added).
90 Ghosh, Trafficking in Women and Children, 39.
problem lies in the fact that instead of empowering women, rehabilitation is underpinned by a particular attitude regarding female migration and sexuality. This attitude, which mirrors the dichotomy of the innocent/forced victim and the guilty/voluntary sex worker, becomes manifested in policy suggestions which serve to limit women’s mobility. Thus, rather than facilitating women’s migration, the policy suggestion is a tighter immigration system with local monitoring of women’s movements to and from their villages.\(^91\) The attempt to control women’s movements is contrary to the aim of enabling autonomy and underestimates women’s ability to make meaningful decisions in the face of adverse circumstances. It also affects all female migrants, not just trafficked women. The effects of migration on individuals are not uniform, yet assumptions about trafficked women such as “low awareness of their exploited situation” and that they live “lives devoid of dignity and self-esteem” after leaving brothels or if they decide to stay,\(^92\) treat migration and sex trafficking as one negative, uniform whole.

(a) Border Patrol

Intercepting female migrants at various points along the Indo-Nepali border has become one of the most common anti-sex trafficking strategies among anti-sex trafficking NGOs in Nepal and India. This local form of governance policy embodies all three negative governance of gender effects: the failure to encourage autonomous competency skills,

\(^{91}\) I will discuss this in more detail below in the context of migrant resource centers as a possible alternative that does not hinder the exercise of autonomy.

\(^{92}\) Ministry of Human Resource Development and Department of Women and Children *Trafficking of Women and Children in India*, 4.
constructing options so that certain options are excluded after rescues take place and
discouraging or penalizing certain activities. NGOs post “border guards” at official
checkpoints, and these border guards stop and question any female (woman or girl) whom
they suspect is being trafficked. In many cases, the border guard will send the woman to a
transit home near the border run by the relevant NGO.93

The effectiveness of border patrol as a “pro-woman, anti-trafficking strategy”94 is not
straightforward. Indeed, it might be argued that it limits options when women are taken to a
transit home, and also discourages or even penalizes female migration. The intervention
takes a “welfare-oriented top down approach.” It proceeds under the assumption that the
border guards, and by extension, the NGO, know what is best for women; it does not take
into account the fact that migration is a crucial livelihood strategy in these contexts.95

Typically, female migrants are stopped and questioned by border guards. Any travelling
companions (usually male) are also questioned separately. This practice of dealing with sex
trafficking carries a very high risk of violating the right to mobility. Women often feel
harassed when they are stopped and angry with all the questions. It is not unusual for the
same woman/girl to be questioned by up to eight people,96 and in many cases, there is no real
confirmation that the woman was being trafficked. This was confirmed by NGO workers
who also stated that in some cases, women in the transit homes need to be “convinced” that
they were about to be trafficked and that sometimes the workers have to be “harsh” to make

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93 Maiti Nepal is the largest and most prominent NGO undertaking this activity.
94 Sondra Hausner, The Movement of Women: Migration, Trafficking and Prostitution in the Context of Nepal’s Armed
Conflict, (Kathmandu: Save the Children USA, 2005), 49.
95 Catrin Evans and Pankaja Bhattarai, A Comparative Analysis of Anti-Trafficking Intervention Approaches in Nepal
96 Hausner The Movement of Women, 50.
them understand.\footnote{Evans and Bhattarai, \textit{A Comparative Analysis of Anti-Trafficking Intervention Approaches}, 22.} In the case of minors, if phone contact is established with relatives, she is allowed to go through. However, the rationale for this strategy is unclear since anyone can claim to be a parent or guardian. Once in the shelter home, she is not released until family members come to collect her. Furthermore, border guards cannot prevent girls or women from travelling with parents or husbands who may themselves be traffickers.\footnote{Hausner, \textit{The Movement of Women}, 47-48.} On some occasions, border guards have stopped couples from eloping by either sending them back home or separating them and sending the girl to the transit home.\footnote{Ibid., 48.} The protective reasons for this are not clear.

Two community-level responses have arisen to border patrol exercises, both of which induce fear in female migrants (since all are subject to being stopped by border guards) rather than a sense of well-being and human rights protection. Firstly, there is now a well-established culture of lying to border guards in order to get through without trouble. Most women state that they are going to India for “treatment of stomach problem,” regardless of whether they are questioned by police or NGO border guards.\footnote{Ibid., 25.} Second, and perhaps more worryingly, just as with the word-of-mouth strategy regarding the “stomach problem,” there is also a general belief (also spread by word-of-mouth) that any female travelling alone or with a male will be stopped at the border by NGO border guards. The process of being stopped, staying in a transit home and then returning to one’s village is itself highly
stigmatizing because villagers often associate any female migration with prostitution.  

This perception was also confirmed in the critical moral ethnography.

The overall message is an anti-migration one and the overall effect in many cases has been that women and girls who pass through the transit homes often have the impression that all girls going to India are sold into, or end up in, prostitution. When they talk to their family members and peers as such, the potential for stigma against any female migrant returnee is great.  

The basis of the message is the use of fear to prevent women from leaving their homes, and the success of interventions tends to rely on whether or not women choose to leave their villages. This is not in keeping with either the protection of women’s human rights or an ethic of care and, given the 1,850 km long border between India and Nepal, “border patrol” as an anti-sex trafficking strategy can never be wholly effective.

(b) Prescriptive Welfare Programs

Rehabilitation programs in both NGO and government shelter homes tend to be prescriptive—“telling girls what they should do, advising them to return home and advising families to accept them back.” The problem is worse in the government homes where a number of shortcomings (poor infrastructure, small budgets, ineffective skill-building programs) means that women often do nothing for long periods and emerge as professional

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101 Catherine Chen and Karen Marcovici, Exploring the Status of Reintegrated Girls: A Participatory Study, Kailali and Kanchanpur (Kathmandu: Save the Children USA, 2003), 12.
102 Ibid., 12.
103 Evans and Bhattarai, A Comparative Analysis of Anti-Trafficking Intervention Approaches, v.
104 Ibid., v.
shelter home inmates. Those who did not want to be rescued view the home as a prison, especially as they are confined to the shelter homes.\(^{105}\) It is noteworthy that this view (among some female residents) of shelter homes as prisons was also present in the critical moral ethnography.

In the case of NGO shelter homes, programs that are centered on traditional occupations such as sewing and knitting negatively emphasize traditional gender roles and, as Hausner points out, may not be appropriate for women who have already broken social norms.\(^{106}\) In addition, the strategy fails to give adequate consideration to the fact that sex work pays more than these professions. For example, both Pooja and Gayatri explained that they choose to remain in sex work because it paid more than being a tailor. As with border patrols, the effect is to construct options so that certain options are excluded after rescues take place and discourage or penalize certain activities. There is a clear sense that it is wrong to return to the sex trade (hence the ubiquitous term “re-trafficking”) and much effort is put into convincing women who desire to return that they should do otherwise. For example, one NGO official recalled the case of one young woman who had been rescued and brought to the shelter home. She was a dancer and sex worker, felt that there was nothing wrong in doing so and expressed a desire to return to her profession. The staff tried to explain to her that “this dancing is different from the classical dancing on the stage...you should try to learn good classical dancing.”\(^{107}\)

The path to the return to “mainstream society” is paved with a mix of moral judgments and anti-migration sentiment. In addition, the welfare orientation of rehabilitation programs

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105 Nair *A Report on Trafficking in Women and Children in India*, 27.
does not take into account the reality of women’s lives and the circumstances in which they were trafficked. Taken together, these all work to impede the development of autonomous competency skills.

(ii) The Content of Autonomous Reconstitution

Autonomous reconstitution can be understood as the “relational” aspect of relational autonomy in action or, in a related sense, as the moral knowledge of the critical moral ethnography come to life. It is how trafficked women live, act and react to the circumstances, people and policies that reflect particular material, discursive and ideological conditions. This much more expansive understanding of the context of sex trafficking goes well beyond simplistic and unachievable goals to end poverty and prostitution. At a very basic level, the tension in the relationship between trafficked women and most of the anti-sex trafficking community lies in different understandings of the mental and emotional attitudes regarding female sexuality. With regard to migration in general, this might be extended to mental and emotional attitudes regarding gender as well. Within the governance of gender framework, these attitudes are fixed and are generally of an anti-prostitution persuasion. However, for those women whose sexuality and identities are in question, these attitudes are often fluid and subject to renegotiation. As I argued above, the fixed anti-prostitution attitude means that reconstitution is hindered.

Anti-sex trafficking policy at all levels should foster independence of mind and self-assertion in action as the foundation of autonomous reconstitution. I owe this insight to my

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108 I believe that ending prostitution is an unachievable goal. Realistically, there will most likely always be a market for sex outside the structure of the monogamous heterosexual marriage.
reading of Meyers, who notes that independence of mind and self-assertion in action are not incompatible with ideals of masculinity and are often fostered in boys while girls are raised to be “thoroughly other-regarding.” While quite correct, I part company with the implication that being “other-regarding” is necessarily always negative. Rather, I would argue that in the world as it is, it is only one small part of the picture. It is the case that in the current gender of governance context, girls and women are socialized into being “other-regarding” as opposed to independent. However, as I argued above, autonomy is also exercised to some degree. This fact cannot be ignored and forms a crucial part of the relational analysis. Therefore, in a relational context, it is necessary to recognize that the exercise of independence of mind and self-assertion in action often includes decisions that have to do with the self and others within her purview. Fostering this will in turn have a positive impact on self-conceptions, the competencies and capacities to exercise autonomy and the ability to make autonomous choices.

Autonomous reconstitution understood in this sense has two positive effects. First, it avoids the unresolved contestations that are typical of the anti- vs. pro-prostitution debate regarding understandings of prostitution vis-à-vis women’s human rights. It can also help to avert the concrete threat to autonomy that practices such as border patrols and prescriptive welfare programmes (which in turn stem from an anti-prostitution approach to sex trafficking policy) inflict. Rather, the focus in autonomous reconstitution is placed on how best trafficked women themselves can exercise their rights. This reduces the dangers of reaching a point where others speak on behalf of trafficked women and articulate how these women should ideally exercise their rights, to the detriment of the women themselves.

Secondly, as a policy goal and initiative, autonomous reconstitution can be employed at all stages of the migration process—village, border and destination. At the moment, from village to destination, girls and women are heavily dependent on men. Community-level research has confirmed that gender roles are defined from a young age, with boys being more likely to receive an education and better access to health care.\textsuperscript{110} In adulthood, circumscribed mobility means that women do not venture very far from their homes. One study in West Bengal documented how women normally access services that are within one km of their home, and then only the school and market. Even for other services that were within this distance, “The women said that there were some places that only men go, such as the high school, police thana, and local government offices of the Gram Panchayaat. The day-to-day experience is that women normally need their husband’s permission to move outside the home.”\textsuperscript{111} In the process of migration, this becomes translated into dependence on others for help with migration in the face of insufficient knowledge of the process. Most women rely on male relatives or village members (or agents in the case of overseas labour migrants) with no money or further information about their destination.\textsuperscript{112} Even women crossing the border to join spouses often do so placing all their confidence in husbands they had not met in some years.\textsuperscript{113} There is a very low level of awareness of the law and women in village communities often view the right to security and protection of the law as reserved for the wealthy.\textsuperscript{114} All of these realities in turn increase the risk of trafficking. At the destination points, the effects of these hindrances to autonomy linger, and might be linked to my own

\textsuperscript{110} Concern Universal, Community Perspectives on Human Rights and Decision-making (Dhaka: Concern Universal, 2007), 23.
\textsuperscript{111} Ibid., 30. “Police thana” means police station.
\textsuperscript{112} Hausner The Movement of Women, 49. This was also confirmed by my own data.
\textsuperscript{113} Ibid., 22.
\textsuperscript{114} Concern Universal, Community Perspectives on Human Rights and Decision-making, 62.
finding that some sex workers in both India and Nepal felt that they could not get alternative jobs because there is no one to help them.

There is a sense in which trafficked women do take responsibility for themselves and others, and have a desire to take even more responsibility. However, there is also a dire need to increase their capacities to exercise their autonomy in order to take that responsibility instead of telling them what they should or should not do. The simple act of deciding to migrate in the context of a male-dominated society in which women’s movements are heavily circumscribed reflect not only some degree of independence of mind and self assertion in action, but also a great deal of courage. These facts are entirely missed in standard sex trafficking analyses. Independence was the most oft-cited need to emerge from the critical moral ethnography, as reflected in very courageous attempts to escape abusive domestic situations and/or poverty. These all form part of the process of autonomous reconstitution, and must be reflected in policy at all levels. The remaining issue is, then, exactly what prescriptions flow from all of this? I will examine this first at the local and national levels, in the context of communities of judgment, and then link all three to an examination of the UN Trafficking Protocol.

(a) Local and regional policy

At any level, relational and care considerations dictate that anti-sex trafficking policy should not instil a fear of migration, should reflect an appreciation for the reality of the lives that trafficked women leave behind, and most importantly, should recognize and respect trafficked women’s ability to make decisions that are in their best interest. In other words,
with regard to the three negative effects referred to above, policy that follows these guidelines will not fail to encourage autonomous competency skills, will not construct options so that certain options are excluded after rescues take place, and will not discourage or penalize certain activities (particularly, migration itself, sex work or a return to sex work). Furthermore, some anti-sex trafficking policies have an impact on all female migrants, and the considerations above apply equally.

Awareness programs at the village level do have an effect. However, the content of such programs is crucial. A comparison of the outcomes of two different approaches illustrates this fact. Janani is from Eastern Nepal near the border with India. She went illegally through India to Kuwait and worked for two years as a domestic servant. Although she had to work extremely long hours and was scolded by her bosses, she said that she had no problems otherwise during her stay. After she had come back, one of her relatives told her that she (Janani) should come with her (the relative) to Kuwait and that her husband would be given 3,000 Nepalese Rupees. However, the relative put her and three other women on a train bound for Mumbai but did not come with them. In Mumbai, they were met by “burly agents.” Janani had recently heard about twenty-five women from her native district in Eastern Nepal being sold in Kuwait. She had also attended an NGO safe migration awareness workshop.\footnote{WOREC Nepal is the NGO in this case.} All of this made her suspicious, so she kicked up a fuss in the train station and returned to Nepal.\footnote{Janani also provided anecdotal evidence of other Nepali women she met the first time she travelled to Kuwait. Those women had met Nepali men in Kuwait who claimed to have good jobs for them. They were subsequently sold into red light areas. \textit{Interview with author, Sunsari, July 2010.}} By contrast, another study documents how participants who had been intercepted at the border by Maiti Nepal\footnote{Maiti Nepal is a very large and active anti-prostitution NGO in Nepal.} and stayed in the transit home came
away with an anti-migration awareness message (all girls/women going to India end up in prostitution). This affects many potential female migrants and stigmatizes those who have returned.\textsuperscript{118} It is also self-defeating as women will continue to migrate as long as it is perceived to be in their best interest. Fear mongering does not reduce the likelihood of sex trafficking.

Migration is both a need and a right. It is a reality that in the present context, the circumstances of migration make women vulnerable to trafficking. Measures to reduce this vulnerability should not target the act of migration itself. Rather, emphasis should be placed on making migration safe. This should include, at a minimum, education that teaches women to inquire about the circumstances of any decisions they are considering, whether it be regarding employment or marriage or both. Basic skills such as literacy, using money, communications and reproductive health should also be emphasized. “By encouraging scrutiny and critical thinking rather than fear, girls may feel more independent, resourceful and empowered.”\textsuperscript{119} Hausner’s observation can be easily extended to women, as the case of Janani above illustrated. Awareness campaigns that disseminate information that is appropriate to the context of migration can be effective.

Migration education and awareness can be the responsibilities of both the relevant NGOs and local and national governments. Rather than taking on the role of police and investigators (with dubious amounts of success), NGO employees at border crossings are well-placed to act as “educators and information brokers,”\textsuperscript{120} providing all female migrants with information regarding safe migration. This is quite different from interceptions and

\textsuperscript{118} Chen and Marcovici Exploring the Status of Reintegrated Girls, 15.
\textsuperscript{119} Hausner The Movement of Women, 46.
\textsuperscript{120} Ibid., 49.
forced stays in transit homes. Instead, the provision of education that fosters autonomy can help to increase awareness of sex trafficking and the realities of working in foreign countries while enabling women to do what they would otherwise do anyway (without being forced into less-than-helpful circumstances in which they lie to border officials in order to cross unimpeded). In addition, migration education that is easily implementable and widely available might also help to reduce the social stigma associated with migration, such as automatic associations with prostitution and pregnancy outside of wedlock.

This kind of shift in focus is also desperately needed in national policies. As they stand, policies in both India and Nepal recognize the need to involve political institutions at all levels. However, the suggested actions fall far short of enabling independence of mind and self-assertion in action. Rather, the focus is more on the control of female migration in order to stop sex trafficking. In its recommendations to government, the Office of the Special Rapporteur on Trafficking in Women and Children in Nepal suggested that there should be a mechanism for the registration of all women and girls leaving villages, and that this registration should be undertaken by Village District Committees.\textsuperscript{121} Similarly, “tracking of women migrants” is deemed to be necessary and should be undertaken by the Panchayaats at the village level in India by maintaining records of female migration.\textsuperscript{122} In urban centers, “Employers should be made to register the names of domestic servants with local police stations. It should also be mandatory for parents to register the names and jobs

\textsuperscript{122} Recommendations of the Eastern Regional Workshop to consider the Draft Integrated National Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Women and Children, (Government of West Bengal 2007), no page number available.
of all family members with local Panchayat offices.”123 Given that many women migrate in order to escape from abusive or otherwise intolerable domestic situations, registration of migration may exacerbate rather than alleviate the situation. Furthermore, maintaining records will not necessarily stop sex trafficking in the absence of adequate knowledge regarding the process of migration. It also does not address the issue of social stigma against female migrants in general.

Hausner suggests that transit homes might be used as refuge shelters for any woman who is desirous of leaving her domestic situation.124 Thus, rather than acting as a location for the “conversion” of willing or unwilling female migrants who are perceived to be in danger of being trafficked, these homes might be put to the service of women who actually had been trafficked for sex (and have a desire to use the transit home) and more widely by women from local communities who would benefit from various kinds of social support. It is noteworthy that in two studies conducted of border transit home residents, the majority of the women interviewed had not been trafficked. In one study, three out of twelve interviewees in the transit home had been trafficked125 and in another study, none of the three women interviewed had been trafficked.126 These sample sizes are small, but when considered in the light of other evidence which suggests that the more pressing need is for education regarding safe migration, the usefulness of the current functions served by transit homes becomes questionable.

123 Ghosh, Trafficking in Women and Children, 73.
124 Hausner The Movement of Women, 5.
125 Chen and Marcovici Exploring the Status of Reintegrated Girls, 14.
126 Hausner The Movement of Women, 51.
A far more effective alternative to the spread of transit homes might be the availability of migrant resource centers. These centers can be placed in both small towns and large urban areas where the majority of female migrants pass, whether as a transit point or a final destination. The function of a migrant center would be to “provide legal, educational and refuge facilities” to female migrants, regardless of their origin, destination or intent in the process of migration. Migrant resource centers can have several advantages. The first and most important advantage is that the nature of the functions of a migrant resource center is in keeping with a care approach that can help to foster independence of mind and self-assertion in action rather than a moralistic welfare approach that is shaped by pre-determined judgments about what is best for female migrants, particularly with regard to their sexuality. The needs of independence, employment and education can all be addressed here to some extent. If not directly then, at the very least, women can be safely pointed in the direction of appropriate assistance. In this manner, they can better judge and evaluate their own options. While the idea of migrant resource centers has surfaced in policy documents, it has not been implemented in either case study area. In addition, the idea is placed within a rescue, rehabilitation and repatriation context, rather than as a strategy that can help to foster the autonomy of trafficked women. For example, the Government of West Bengal suggests that “contact centers” might be established in the transit points of major cities such as railway stations to give “guidance and information to women in need of temporary shelter about the address of short stay homes, reception centers, shelter homes, etc.” While this is not a bad idea in and of itself, there is no further mention of any other functions that might facilitate

127 Hausner The Movement of Women, 52.
128 Government of West Bengal Recommendations of the Eastern Regional Workshop to consider the Draft Integrated National Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Women and Children, no page number available.
independent action. The resistance to the “shelter home” has been well documented, both in the critical moral ethnography and in studies conducted by other researchers. While they serve a useful role for some trafficked women, they are neither the most attractive nor the most effective solution for many others, both trafficked and otherwise. Therefore, the need for alternative means of making relevant resources available is especially important.

The second advantage of migrant resource centers is that, like the avoidance of the pitfalls of a welfare approach, the nature of the functions of a center might help to mitigate some of the negative stigmatizing effects that are normally associated with shelter/transit homes and migration in general. It is undeniable that migration is a crucial livelihood strategy for many women. There is a tension at the community level between this recognition and the perception that a woman’s character can become “spoilt” by leaving her home and husband, and going to new environments. Providing education about migration at the community level can be helpful in disassociating migration from prostitution and more generally, by helping to reduce the negative stereotypes that are associated with the act of migration. Furthermore, since women who are well-informed are much more likely to question and investigate the conditions of any potential employment and are, therefore, less likely to be trafficked, the problem of repatriating “fallen women” to their home villages can be alleviated. The focus should be on empowering all female migrants and fostering environments in which they can return home with confidence—echoing the need/desire to stand on one’s own feet that came up in the critical moral ethnography. It is most likely the case that the same word-of-mouth mechanism that so effectively spread the message about

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how to outwit NGO border guards can also be helpful in spreading awareness of migrant resource centers.130

Finally, the third advantage of migrant resource centers is its efficient use of donor dollars or government funds. NGOs might tend to favour welfare approaches in which quick results are easily visible for the sake of guaranteeing a continued stream of funding, instead of investing in long-term strategies for empowerment.131 However, migrant resource centers have the advantage of potentially catering to a very large pool of migrants from different countries. With regard to those in the sex industry, “Women from many different areas of the subcontinent working in neighbouring brothels would also be able to convey information to one another about how to get assistance that is not limited to women from a particular country.”132 Even outside the sex industry, these centers can provide important services for migrants, including those going further afield than India, such as to the Middle East, and those who work in industries that are somewhat peripheral to the sex industry, such as the restaurant industry in Kathmandu. Without the possibility of being confined in a shelter home (or with an option to go to a shelter home or choose otherwise), the uptake of these services among female migrants may also be higher. Providing legal, educational and refuge facilities fulfills both a short-term need for care where it is necessary and a long-term need for the provision of avenues for enabling autonomy, both of which will help to reduce the incidence of trafficking.

The portrait of victimhood that is painted in the vast majority of reports, analyses and commentaries on sex trafficking misses the courage and determination that led trafficked

130 Hausner The Movement of Women, 50.
131 Evans and Bhattarai A Comparative Analysis, 24.
132 Hausner The Movement of Women, 52.
women away from their homes in the first place, as well as the entrepreneurialism and skills of negotiation and transaction that they most likely would have developed as a result of their experiences. The critical moral ethnography documented how an important element of the decision-making process, even within the process of trafficking itself, was the fact that sex work pays much more than the alternatives that are available to the average trafficked woman. The average salary for alternative occupations such as domestic work, agriculture and construction labour is 500-1,000 Indian Rupees per month, while the average sex worker’s salary is 3,000-5,000 Indian Rupees per month. In addition, virtually every single trafficked woman has broken with traditional gender of governance norms and stereotypes within their own communities about what is and is not acceptable behaviour for women. These are extremely important considerations that are wholly missed in the process of rehabilitation. Understood in this light, the decision to remain in sex work after having been trafficked might be compared against going through a period of confinement in a shelter home (whether government or NGO-run) learning skills in traditional occupations that most likely pay less than sex work. The very process is not conducive to working towards enabling the autonomy of trafficked women and must be re-thought. Many women do desire to leave the sex trade and the need for alternative employment was identified as an important need for some women in the critical moral ethnography. However, “rehabilitation” should be replaced with programmes that allow for the exercise of choice, and this must include the choice to remain or leave without undue pressure or attempts to “see that there is another way.” Hausner points out that “providing alternative jobs for women in sex work requires a

good match of skills, a sense that they will be valued in their new vocations, and sufficient income to make the labour shift worthwhile.” Training in non-traditional sectors is rare but it is not impossible. For example, one NGO has trained trafficked women to be paralegals, while another has trained women to be village health workers. Training to make the labour shift worthwhile requires state support, and I will explore this in more detail below.

Policy and policy recommendations in both India and Nepal cite the goal of protecting trafficked women’s human rights as the foundation of the 3P approach of prevention, protection and prosecution. Many elites interviewees confirmed that this was the method used in anti-sex trafficking practices, and that the women are not made to do anything against their will. Certainly, most documents contain a statement regarding women’s right to choose what they want to do. For example, the Draft National Integrated Plan of Action to Prevent and Combat Human Trafficking with Special Focus on Children and Women in India states that “The rescued person shall have the right to choose her own economic rehabilitation plan” and “the rescued victims have a right to be informed as well as consulted on all matters and decisions that affect them.” Similarly, the Nepal Control Act states that with government support, NGOs shall “manage for the social rehabilitation and family reconciliation of the person stationed at the center” and that “no-one shall make the victim in the Center engage in any work against his/her wish.” Yet, despite these assertions, all the relevant policy documents go on to use a foundation of “rehabilitation and reintegration of

134 Hausner The Movement of Women, 36-37.
135 Samrakshak Samuha, an NGO based in Kathmandu, Nepal.
136 Evans and Bhattarai A Comparative Analysis of Anti-trafficking Intervention Approaches, 28.
138 Ibid., 65.
139 Nepal Control Act, 5.
victims into mainstream society” without adequate focus on consultation and empowerment. In some instances, these efforts appear to border on the misogynistic. In addition to the very high levels of stigma against all sex workers, two other areas in particular stand out in this regard— recommendations regarding the children of sex workers (including those who were trafficked for sex) and police raids coupled with the actions of the media.

The children of sex workers are universally understood to be at very high risk of becoming sex workers themselves, particularly daughters. While it is beyond the scope of this dissertation to analyze ethnic groups in India and Nepal with traditions of family prostitution or the frequency with which the daughters of sex workers are trafficked and/or become sex workers themselves, it is within the scope of an analysis of anti-sex trafficking policy to consider how many women who were trafficked for sex and remained or returned to the sex trade, or attempted to find other means of employment, did so for the sake of their children. In this light, recommendations that the children of sex workers should be removed from their mothers to pre-empt any movement into the sex industry is a gross violation of the rights of the women whom policies are meant to protect. With regard to sex work in general, one study in India suggests that “NGO efforts at establishing and running residential schools for children of prostitutes should be supported in order to remove these children from their present surroundings and educate them in a sense of moral and social responsibility...so that these children may be empowered educationally and join the national mainstream.”\(^1\)\(^{40}\)

Similarly, with regard to sex trafficking in particular, another major national study states that “The children of women who are subjected to commercial sexual exploitation are highly

\(^{1}S.P.\text{ Pandey, Rehabilitation of Disadvanced Children and Women Sex Workers (New Delhi: Serials Publications, 2008), 95.}\)
vulnerable and liable to be trafficked at any time. Therefore, preventing trafficking of these highly vulnerable children requires their rescue without any delay...pre-emptive semi-custody, with facilities for economic self-reliance and moral normalization, are essential to prevent trafficking of such persons.¹⁴¹ These kinds of assertions appear to imply that all sex workers are bad mothers who do not send their children to school. At the very least, these children are assumed to lead lives that are steeped in anti-social (presumably sexual) values. When considered against the evidence from the critical moral ethnography that identified education for children as an overwhelming need, this type of policy focus is untenable. In addition, the justification for the removal of children from their mothers and how this can be considered part of a strategy that protects the human rights of trafficked women is unclear. Many mothers care very deeply about the fate of their children, so much so that the (often) reluctant decision to remain in sex work is done so for their children’s sake. For example, I referred in Chapter Two to Sita, who had been trafficked several times and eventually ended up staying in the sex trade in Sonagachi. Upon beginning her interview with me, she asked me what was the use of my research when sex workers and their children have not had their rights respected. She explained that sex workers face a great deal of discrimination in their attempts to enrol their children in school. Her needs were to have a house and for her children to get a good education.¹⁴² Although she felt that she had suffered greatly as a sex worker and did not want her daughter to do it, she chose to continue for the sake of her children’s education. It may be true that some daughters of sex workers also become sex workers. However, it is not true in every instance and Sita’s story is far from a scenario in which her daughter and all the other daughters of sex workers “have not yet slipped into the

¹⁴¹ Nair A Report on Trafficking in Women and Children in India, 334.
¹⁴² She has one daughter and one son.
circle of vice but are perilously hovering around it and are gravitating towards the flesh business,” and therefore need to be rescued. This kind of narrative is not rare and it illustrates the importance of contextual knowledge in the process of policy decisions.

The actions of police and media are another area in which national policy can inadvertently but seriously violate the rights of trafficked women. Police raids are often the only visible attempts at controlling sex trafficking. I have explained earlier how the media are often invited along on police raids in Kathmandu. There has been an acknowledgement of the damage that the media can inflict on trafficked women in policy recommendations—the media are encouraged to refrain from placing blame, maintain confidentiality and not show names and faces on television, and provide fair investigative coverage. However, this is far from what occurs in practice, and the fact that many interviewees described having trouble with or fear of the police and media should warrant dedicated attention in anti-sex trafficking policy.

Much more so than at the international level, governments, via national anti-sex trafficking policy, need to be guarantors of care. This care should not be an anti-sex work rehabilitative type of care, as the critical moral ethnography provides evidence that it is not in keeping with what trafficked women articulated as the most pressing need for their lives. While it can be helpful to suggest that more funding should be directed to anti-sex trafficking efforts and more support given to NGOs working in this area, the overall tone of policy needs to be much more specifically directed towards enabling autonomy and should not be anti-migration and/or anti-sex work. In other words, the structure of the oppressive relationship

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143 Nair A Report on Trafficking in Women and Children in India, 398.
with trafficked women needs to change. A first step may be in providing rules and greater oversight of NGO activities which incorporate operating procedures that allow for maximum control on the part of trafficked women. Women should not be rescued against their will, nor should they be forced to stay in shelter homes against their will, even for temporary periods in which attempts are made to shift their moral compass. The content of programmes in shelter and transit homes should be targeted much more directly to fostering independence of mind and self-assertion in action, with a view to enabling women to meet their needs for themselves and with respect for their ability to make decisions that are in their best interests. Not only should this be reflected in the language of policy, but it should also be matched by government support. In addition, both the government and NGOs can play important roles in spreading messages of awareness, but governments have a particularly important role to play in correcting the fact that awareness of the law is very low and that law officials appear remote and inaccessible at the community level in both India and Nepal. As a result, many crimes go unreported and incidents of trafficking, that could have otherwise been prevented, do still occur. Specific rules that limit media involvement should also be written into laws.

Overall, enabling autonomy in policy requires the separation of anti-sex trafficking and anti-prostitution sentiment. Sex trafficking and prostitution are linked, but attempting to end prostitution instead of undertaking measures that would reduce the likelihood of trafficking has been a failure thus far. Rather, there is a good case to be made for decriminalizing sex work and mobilizing sex worker communities in the fight against sex trafficking, as the Self-Regulatory Board of DMSC in Kolkata has been doing for some time.145 Similarly, the

discussion of “poverty-in-context” in the previous chapter highlighted how recommendations to end poverty at the village level are simplistic and unattainable. Related to this is the likelihood that gendered social structures that are designed to women’s disadvantage are unlikely to be dismantled anytime soon. Thus, “educating women and girls” may be another such simplistic and unattainable goal, at least in the short term. Simply giving education will not necessarily increase decision-making capacity, given the complex socio-cultural circumstances in which sex trafficking takes place. In the absence of an end to poverty and gender discrimination, targeted education campaigns (such as awareness campaigns at the village levels and as provided through migrant resource centers) should include knowledge that tries to change attitudes towards female migration and prostitution in order to allow for genuine autonomous reconstitution on the part of all female migrants. This would, by extension, help prevent trafficking but would still be in keeping with the aims of an ethic of care. The right to choose one’s occupation must be emphasized at all levels. Trafficked women must be able, as they choose, to deal with “poverty-in-context” as it relates to their particular circumstances. And in so doing, the need for complex and potentially self-defeating procedures such as rescue and rehabilitation might be greatly reduced or even eliminated.

(b) Communities of Judgment and Autonomous Reconstitution

I have argued that it is not necessary to aim for widespread acceptance of care as a public value, but that care can and should be employed as a political practice at all levels of
policy. Communities of judgment provide one living example of how this might be done in such a way that it has a practical impact in terms of preventing sex trafficking and providing meaningful assistance to trafficked women in accordance with their needs. The two communities with formal structures in particular have employed institutional methods of acting in accordance with an ethic of care—women have a clear choice of association (unlike rescue and rehabilitation models) and they retain full control of the decisions they make while taking advantage of the resources offered by the community.

The space for deliberation and exchange that allows for the emergence of a “common sense” among the women has two very important implications across all three examples. First, it allows for the process of autonomous reconstitution without externally imposed moral judgments against sex work (or restaurant work, and the two may overlap in some cases). For example, in describing how DMSC helped in dealing with the shame of sex work, how massage parlour workers in Kathmandu understand each other to a greater degree, and how restaurant work helped to cope with the death of one’s children or foster feelings of “street sense” and independence that previously did not exist, the interviewees all described renegotiations of their psychosexual identities and a positive evolution of their self-conceptions. Similarly, Charu, whose story I outlined in a previous chapter, participates in an organization called Pourakhi in Eastern Nepal that caters to female domestic labour returnees. She explained how “In Pourakhi, I can interact with women like me.” 146 The spaces that facilitated these interactions and the process of autonomous reconstitution in turn increased these women’s competencies and capacities to exercise their autonomy, and their ability to make autonomous choices even when, to the outside observer, those choices are

appeared to be heavily circumscribed by the constraints of gender discrimination, poverty and stigma. Nedelsky explains how in the context of a community of judgment, women’s sense of their own experiences can change in the course of recounting their experiences to other women whose stories become reference points. In so doing, “individual and emerging collective judgments” can shift as well.\textsuperscript{147} This explanation might help to account for the kinds of transformation that the communities of judgment in my example have been able to accomplish.

The second important implication of the consolidation of a community of judgment with a shared common sense is that it provides a justification for judgments regarding what is and is not acceptable policy practice with regard to the lives of trafficked women. I have described above how the three examples of different kinds of communities of judgment help to foster the autonomy of the women who choose to participate. This can be contrasted with practices such as border patrol and rehabilitation that often achieve the opposite. Communities of judgment also quite intriguingly provide a practical means of employing the practices of care— they can and do engage with public institutions, with the aim of bringing attention to issues such as the need for labour laws and regulations in sectors such as the sex trade and the informal restaurant industry. In so doing, they help to bring greater scrutiny to the fact that the private and public dichotomies overlap to very large extents.

Overall, communities of judgment can engage with the political practice of care without attempting to accomplish the forced, socially determined reconstitution of any one particular trafficked woman. The communities themselves are a practice in which women can negotiate or renegotiate their identities, their self-conceptions and their understandings of

\textsuperscript{147} Nedelsky \textit{Communities of Judgment}, 8. The author was drawing on the example of women’s consciousness-raising groups in North America in the 1970s.
their human rights. Thus, this type of practice provides an avenue by means of which the contestations of the human rights of trafficked women outlined in Chapter One might be resolved. In particular, the question of whose rights to be specified by whom can be approached first by taking into account the perspectives of those whose human rights are at stake, and perhaps resolved in the context of the common sense judgment of the community. This is in keeping with the methodology of the ethic of care— the articulation of that judgment by the subjects of policy is exactly the aim of the alternative epistemology.

(c) United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, 2000

By its very nature, as a piece of international law that must encompass the entire international system, the UNTP is very broad with much room for interpretation. Is it even possible to reconcile this with as contextual a methodology and mandate for action as the ethic of care? The very purpose of the UNTP demands it, in order to help correct for the shortcomings in regional and national level policy and to fulfill its own stated purpose, that is, to prevent and combat trafficking “with particular reference to women and children” and “to protect and assist such victims of trafficking, with full respect for their human rights.”148

In both India and Nepal, the UNTP has been a guide for action. In Nepal, the Trafficking Control Act (2008) specifically defines and criminalizes trafficking “as per the requirements

of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons 2000.” In India, the ITPA (1956) long predates the UNTP. However, in the various (and thus far unsuccessful) attempts to update the national law, the standard definition of trafficking adopted in draft legislation and policy recommendations has been that of the UNTP. In these and many other countries, the national-international relationship is in evidence.

In its most recent report of women and sexuality in Nepal, the Forum for Women, Law and Development in Kathmandu states that “The law is a powerful instrument to influence people’s thinking and actions. Beyond regulating day-to-day actions through civil and criminal codes, the law sets an idealistic standard for how people should treat each other. People look to the laws to learn what behaviour is and is not tolerable.” While these statements were made with regard to local laws on gender discrimination, the philosophy underlying them can be abstracted and applied to the international level. As a mechanism for steering social systems towards the goal of ending trafficking, the UNTP does play an important role in terms of providing a starting point for national policies, legal definitions and guidelines for action. Several elite interviewees in law enforcement, academia and governmental bodies stated that the UNTP is useful for providing a definition of trafficking for national policies. In addition, it was also generally agreed that international policies such as the UNTP and the SAARC regional convention are helpful for creating international obligations on the part of states, so that NGOs and other non-governmental bodies (including

150 For example, Ministry of Women and Child Development, Draft National Integrated Plan of Action.
community-based organizations) can use these obligations to pressure states to live up to their signed obligations.\textsuperscript{153} Therefore, the content of international policy does matter.

It is noteworthy that the UNTP is meant to be applicable to all crimes of trafficking in general, as it states, “Taking into account the fact that, despite the existence of a variety of international instruments containing rules and practical measures to combat the exploitation of persons, especially women and children, there is no universal instrument that addresses all aspects of trafficking in persons.”\textsuperscript{154} However, its chief flaw is in its definition of trafficking as it relates to “the exploitation of the prostitution of others or other forms of sexual exploitation.”\textsuperscript{155} Indeed, just as the national and regional laws and conventions are meant to address trafficking in persons at all levels of policy, the weakness lies in either a conflation with prostitution or, in the case of the UNTP, a confusion because of the need to satisfy anti-prostitution states and lobbyists. With a flawed foundation, the intended goal “to protect and assist such victims of trafficking with full respect to their human rights”\textsuperscript{156} is not achieved.

The other modes of exploitation listed in the UNTP definition of trafficking—forced labour or services, slavery or practices similar to slavery and servitude—have precedents in international law.\textsuperscript{157} However, “exploitation of prostitution” and “sexual exploitation” have no such precedent. Therefore, it is left to states to define these terms in their respective national laws and the problems in so doing are often contiguous with those of incorporating them into the UNTP without clear definitions in order to maintain state support for the

\begin{itemize}
\item \textsuperscript{153} KTM 1 and KTM 11. Interviews with author, Kathmandu, August 2010.
\item \textsuperscript{157} For example, the Abolition of Forced Labour Convention 1957, the Slavery Convention 1926, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery 1956.
\end{itemize}
Protocol. For example, creating or upholding national laws that do not explicitly criminalize prostitution but in practice treat it as a criminal offence and the source of sex trafficking does not help to end or prevent sex trafficking. Given that forced labour and slavery can also encompass all forms of trafficking and forced participation in the sex industry, the terms “prostitution” and “sexual exploitation” are not needed at all. The Global Alliance Against Traffic in Women, the International Human Rights Law Group, and the Foundation Against Trafficking in Women have developed an alternative definition of trafficking in persons that can potentially overcome these definitional challenges and the associated passions that the term “prostitution” tend to inflame:

All acts and attempted acts involved in the recruitment, transportation within and across borders, purchase, sale, transfer, receipt or harbouring of a person involving the use of deception, coercion (including the use or threat of force or the abuse of authority) or debt bondage for the purposes of placing or holding such person, whether for pay or not, in servitude (domestic, sexual or reproductive), in forced or bonded labour, or in slavery like conditions, in a community other than the one in which such person lived at the time of the original deception, coercion or debt bondage.158

According to this definition, sex trafficking is clearly a crime but prostitution is not. Given that there are clear linkages between sex trafficking and prostitution, this issue needs to be addressed at both the national and international levels. While it is beyond the scope of this dissertation to delve into this issue in detail, I will offer some policy recommendations with regard to meeting the needs of sex workers that are in keeping with an ethic of care.

158 Pearson, Human Rights and Trafficking in Persons, 26-27. I must note that The Global Alliance Against Traffic in Women (the publisher of this study) would fall into the pro-sex work side of the prostitution debate.
Given that many trafficked women are also sex workers, it also addresses their needs while respecting their right to choose whether to remain or exit the sex trade. Inglis points out that there is a global policy of ignoring the rights of sex workers that is also mirrored in the domestic laws of most states. In addition, “although every culture has different social and cultural norms related to sex in exchange for money, there are some global trends in the negative stereotypes and prejudices against women who have been involved in prostitution.” As a result, regardless of whether or not states criminalize prostitution, sex workers usually fall outside the protection of labour laws and regulations. There is a need to include sex work and sex workers in existing international frameworks for labour protections. The difficulties of ending the sex trade in any country demonstrate the tenacity of the industry and the fact that sexual transactions will most likely continue to be a part of any society. International bodies and states that claim to have a commitment to women’s human rights have an obligation to afford the labour rights that exist for other workers in international law to sex workers as well.

At the national level, Inglis argues that prostitution stands apart from other forms of trafficked labour by means of social, legal and health-related distinctions. To this, I would add moral distinctions as well. The moral distinction forms the bedrock and justification for the other forms of discrimination, and the enormously high levels of stigma against sex workers paradoxically result in limitations on their abilities to exit the industry and take advantage of other economic opportunities. I argued earlier in the context of communities of judgment that prostitution should be decriminalized as one step in separating it from sex

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159 Inglis Expanding International and National Protections Against Trafficking, 89. I shall base my analysis on Inglis’ discussion of this issue.
160 Ibid., 89.
trafficking. Clear distinctions are necessary to make anti-sex trafficking policy more effective. Furthermore, decriminalization of prostitution and the application of adequate legal protection can help sex workers to organize more effectively, overcome the stigma attached to the profession, and collectively address issues such as sex trafficking and vulnerability to HIV/AIDS.

There are compelling reasons for separating policies that deal with women and those that deal with children. Sexual exploitation of children is a clear crime. In theory, sexual exploitation of women should also be a straightforward crime but in practice, as the debates surrounding prostitution, the innocent/forced dichotomy and evidence from the critical moral ethnography suggest, it is far from straightforward. Even what counts as trafficking and re-trafficking is not uniform. Given these facts, the UNTP should avoid vague language that attempts to satisfy a particular constituency. All of the laws at the international, regional and national levels put women and children into the same category and often use the terms “women” and “girls” interchangeably. Unsurprisingly, this infantilizes trafficked women and gives no credence to their abilities to exercise autonomy and the need to do so in a meaningful way. The UNTP must take greater account of the fact that most forms of trafficking of adults take place within the context of a desire to migrate. If it is to focus especially on women (and not women and children together), then as with the national policy, the tone should be one that recognizes the right and decision to migrate. In addition, the international policy can play an important role in restructuring the relations between states and trafficked women in such a way that fosters their capacities to exercise their autonomy. At the moment, the UNTP does the opposite in two key care areas— protection and prevention.
Article 6(3) states that “Each State party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in co-operation with non-governmental organizations, other relevant organizations, and other elements of civil society.” It then goes on to list the categories of assistance—housing; counselling and legal assistance; medical, psychological and material assistance; and employment, educational and training opportunities. These also provide an additional reason for separating the categories of women and children. All of these things would (or certainly should) look quite different depending on whether the trafficked person is an adult woman or a child. More importantly, despite the opening objectives stated in the UNTP, it does not go on to state any definitive requirements for care, as each State party is allowed “to consider” implementing such measures. Taken together with the vague equation with prostitution given in the definition of trafficking, the way is left open to fashion employment, educational and training opportunities into moral rehabilitation templates within states.

Article 9(1) states that “State parties shall establish comprehensive policies, programmes and other measures (a) to prevent and combat trafficking in persons and (b) to protect victims of trafficking in persons, especially women and children, from revictimization.” In this instance, “revictimization” was not defined and I have explained in detail above the reasons why a return to the sex trade cannot simply be labelled “re-trafficking” and therefore always considered to be an instance of revictimization. This too

can be argued to have stemmed from the innocent/forced debates among academics and activists, rather than truly reflecting the reality on the ground.

The UNTPT then goes on the address both demand and supply side factors that are generally considered to underpin trafficking in persons, including sex trafficking. With regard to supply side factors, Article 9(4) states that “State Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.”\(^{163}\) In terms of the demand side, Article 9(5) states that “State parties shall adopt or strengthen legislative or other measures, such as educational, social or other measures, including through bilateral or multilateral cooperation to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that lead to trafficking.”\(^{164}\) These clauses reflect the entirety of how the conflation of sex trafficking and prostitution leads to poor policy design as revealed by the critical moral ethnography. While it is noble to urge states to address gender of governance factors such as lack of equal opportunity, the policy pays insufficient attention to the significant obstacles to doing so successfully. In addition, it can be too easily interpreted in an anti-migration sense. The logic reflects the logic of practices at the national level in India and Nepal — anti-trafficking strategies based on anti-migration messages and success determined by how many women choose not to migrate and therefore do not end up being trafficked. “Discouraging the demand” has resulted in vague national policies that do not quite prohibit prostitution, but rather leave it in a grey area of uncertainty while the majority


of those arrested in the name of stopping trafficking are sex workers themselves (who may have been trafficked as well as those who were not). Leaving aside the critique of considering these factors as equally applicable to women and children (as I have already dealt with this above), the discussions of poverty-in-context and the need for policy that enables trafficked women’s competencies and capacities to exercise autonomy and their ability to make autonomous choices above demonstrate the fallacy of simplistic “demand-and-supply” side understandings of the problem of sex trafficking.

(iii) “Judgment by whom and valid for whom?”

The most glaring problem with a strategy that equates prostitution with sex trafficking is the fact that the moral judgment on which policies rest at the national level in India and Nepal, the regional level in South Asia via SAARC and at the international level in the UNTP cannot be reasonably held to be valid for all the subjects of that policy. Overall, there is no section in the UNTP that even encourages states to consider the wishes of trafficked persons. It may not be realistic to hope that policy will be re-designed according to an “ethic of care” or “relational autonomy” label. The language of human rights is the language of the law and is the most pervasive and enduring in this regard. Yet, for whom must the judgment and the resulting policy be valid? States? Abolitionist feminists? Pro-sex work feminists? This becomes a significant challenge given that “in virtually all human rights disputes, there are competing communities claiming (in effect) that they provide the appropriate framework

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165 Nedelsky Communities of Judgment, 35.
or context for judging.\textsuperscript{166} This is where the ethic of care can provide guidance. If states are to truly protect and respect the human rights of trafficked women, the first step should be to find out how it is their rights are being violated and what would enable them to exercise control over their lives, and in so doing, exercise their human rights. In other words, the most valid judgment about the form and content of any policy (whether regarding the protection of human rights or care for trafficked women, and these are heavily interrelated) is that of trafficked women themselves.

Avenues for incorporating these voices and judgments should be included in national and regional level policies, and the space for incorporating various standpoints must be built into international policy. In so doing, care is employed as a practice. The institutions of global governance must bear the responsibility of fostering open exchange between those of different standpoints. Closed negotiations between policy-makers and activists have resulted in policies that are bereft of the voices of trafficked women. At all levels, the judgments on which policy is based must claim validity across all communities. In her discussion of Arendt’s conception of impartiality, Nedelsky argues that the enlarged mentality that is a result of taking the viewpoint of others into account can aid in the achievement of a general standpoint, but not a universal impartiality. However, in this context, I would argue that in using care as a practice to acquire the relevant interpersonal knowledge necessary to shape policy, we are striving towards universal \textit{partiality}, justified by reference to the relevant community— that is, the various communities of trafficked women. Current anti-sex trafficking policies also reflect a partial judgment, but it stems from a very limited community that lacks a strong claim to speak on behalf of trafficked women. The

\textsuperscript{166} Ibid., 32.
international community must claim the agreement of trafficked women, respect their ability to direct their lives and foster their ability to make judgments in accordance with their own interests.

(iv) Conclusion

This chapter began with the question of how anti-sex trafficking policy might structure caring relations such that it fosters the value of autonomy for all trafficked women. When the content of the critical moral ethnography is compared to the results of the current “3P” strategy, it is evident that current anti-sex trafficking policy is not in keeping with the principles of care. Yet, I have also suggested that it may be neither realistic nor necessary to expect a wholesale adoption of care as a public value at all levels of policy or a shift away from the language of human rights. The question remains, therefore, whether care can be implemented as a practice within legal and political contexts that use a human rights framework. I argue that it can. Although the human rights framework has often (ironically) involved violating the rights of trafficked women, this is not a necessary consequence of invoking rights language. Properly implemented, care can be integrated into a human rights framework without violating the rights of some trafficked women or acting as a hindrance to their exercise of autonomy.

While the idea of consulting with trafficked women, including sex workers, in the development of anti-sex trafficking policy might seem far-fetched at first, neither policy makers nor abolitionist feminists would deny that women have a right to migrate or that their
human rights in general should be respected. The hurdle may lie in generating acceptance that prostitution and sex trafficking are not equivalent. Yet, this acceptance need not even be a determining factor initially. Existing policies do not foster the autonomy of trafficked women and indeed often do harm. Therefore, they are ineffective and this fact needs to be addressed. Providing support for migration centers, transit homes and communities of judgment can be financially and socially acceptable methods of at least bringing in the excluded voices of trafficked women, whether these are sex workers or not. Support for communities of judgment in particular, have the potential to fill in gaps that are lacking in existing policy and employ care as a practice at the level where it is most needed, without strictures. This need not involve a rejection of the language of human rights. Rather, the relationships that are characteristic of these communities help to foster trafficked women’s autonomy, and in so doing provide a space for their autonomous reconstitution and thus the efficacious exercise of their human rights. Particularly with regard to women for whom, in most cases, the law, legal structures and legal institutions appear remote and inaccessible, these relationships and the process of reflective engagement can make a world of difference for their self-conceptions, competencies and capacities to exercise their autonomy, and their ability to make autonomous choices.
Conclusion

Can the ethic of care form the basis of more effective sex trafficking policy? This dissertation has demonstrated that it can, and has provided evidence for the argument that care as a practice ought to be embodied in the design of anti-sex trafficking policy. This need not involve the wholesale imposition of care as a public value (which might, in turn, be understood as constituting an attack on liberal understandings of the neutral state). Rather, the employment of care as a practice that can guide the design of anti-sex trafficking policy helps to reveal how the focus of current approaches is, at the very least, misplaced and potentially harmful. The interpersonal knowledge of the critical moral ethnography demonstrated the necessity of a relational understanding of trafficked women’s decisions and actions. Current anti-sex trafficking policies at the national, regional and international levels structure these relations in ways that are antithetical to both care for trafficked women and the goal of reducing or preventing sex trafficking. More effective policy would foster the process of autonomous reconstitution for trafficked women, and communities of judgment are one avenue by means of which this might be practically implemented.

In the Introduction, I referred to the fact that both abolitionist and pro-sex work feminists share the goal of increasing the possibilities for women to exercise their rights and control over their lives. Yet, the positions of abolitionists and policy makers share a basic inconsistency. In the quest to protect women’s human rights and end sex trafficking by stopping or attempting to curb prostitution, some of the most basic of human rights are infringed (including the right to liberty and the right to freedom of movement). In addition, what is perhaps the pre-eminent liberal value is undermined— that is, the ability to exercise
one’s autonomy. The critical moral ethnography showed how the current “3 P” approach of prevention, protection and prosecution actually violates, rather than protects, trafficked women’s human rights in many instances. There is a clear sense in which trafficked women are perceived to increase or at least recover their moral standing by giving up sex work, while many rehabilitation programs are akin to a recalibration of the moral compass of rescued women, whether they wanted to be rescued or not and whether they were trafficked or not.

Is prostitution wrong because it is despised by a group of people, or is prostitution despised by a group of people because it is wrong? Concomitantly, are the rights violations that women might experience as sex workers worse than the rights violations that are inflicted as a result of efforts to end sex trafficking by ending the sex trade? With regard to the first question, there is no doubt that some practices that often become associated with the sex trade are wrong, for example, forced sexual labour, rape and child prostitution. However, this fact by itself does not constitute a plausible foundation on which to deem all sex workers as victims and prostitution as the scourge on which sex trafficking rests. Sexual transactions in and of themselves should be treated as a separate matter from sex trafficking. Prostitution in and of itself cannot be easily deemed a universal wrong.

Applied to this issue, the ethic of care makes a valuable contribution on two levels. Firstly, with regard to the question of whether the rights violations from prostitution are worse than the rights violations that stem from poor anti-sex trafficking policy, the methodology of the ethic of care revealed how the existing content and implementation of anti-sex trafficking policy does indeed result in rights violations for both trafficked and non-

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1 I drew my inspiration for this question from Socrates’ profound question to his student Euthyphro: “Are the pious acts pious because they are loved by the gods, or are the pious acts loved by the gods because they are pious?”
trafficked women (through practices such as border patrols). Ending human rights violations for sex workers is a noble goal, but, as it stands, no-one’s human rights are being effectively protected. As a result, the stated commitments of existing anti-sex trafficking policies (according to its usage in anti-sex trafficking discourse) to stop sex trafficking and provide care to trafficked women are not met, and the reality turns out to be inconsistent with these aims. Secondly, the employment of the alternative epistemology sheds light on what may be a far more effective strategy for helping all trafficked women to avoid being trafficked for sex. Turning the focus of decision-making to women’s articulation of their needs for their lives exposed both how prostitution is considered to be wrong because it is despised by those with the power to shape responses to sex trafficking, and how employing the practice of care for trafficked women requires other kinds of responses. In particular, what type of policy would enable trafficked women to meet their needs? A relational approach to sex trafficking policy that aims to foster their autonomy would achieve this goal. In so doing, care is practised.

In this context, relational autonomy might be understood as the concrete expression of an application of the ethic of care.² The oppressive nature of the relationship between the international community and trafficked women means that as a mechanism for steering the international system towards the goal of ending sex trafficking and caring for trafficked women, existing anti-sex trafficking policies are ineffective. The values at stake differ depending on the ontological lens being employed. For those who bear the responsibility for the design of existing policy, values such as “honour” and “dignity” rest on particular understandings of female sexuality. From the perspective of the average trafficked women,

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² It is certainly not my argument that this would be relevant in every application of care ethics. In keeping with the spirit and methodology of the ethic of care, this cannot be specified a priori.
the key value at stake is autonomy. In other words, how can an autonomous life in which she can steer her own destiny and fulfill her responsibilities towards those for whom she cares be achieved? In the myriad of issues that forms the “crazy quilt pattern of international life,” humans will inevitably disagree about values. The ethic of care provides a means by which the disagreement might be resolved in order to design an appropriate institutional response. Whose ontological viewpoint ought to retain primacy in resolving the issue of what the content and goal of anti-sex trafficking policy should be? The community of activists and policymakers who have not themselves been trafficked or trafficked women? The answer to this question becomes simple with the application of an ethic of care.

In general, the nature of the relationship between the international community and trafficked women must be changed. In so doing, it will also become clear how there should also be a change in understandings of the nature of the international community’s responsibilities towards trafficked women. Given that the key value at stake for trafficked women is autonomy, the relationship should be one that fosters trafficked women’s competencies and capacities to exercise autonomy, and increases their ability to make autonomous choices. It is indeed the case that international and national commitments to ending gender discrimination do exist. For example, both India and Nepal have signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). One might argue that taken to its logical conclusion, the goal of fostering autonomy is already adequately incorporated into existing international law. However, without the crucial relational considerations, these commitments do not work well. Both the gender of governance and the governance of gender stand as proof of this. In other words,

3 Weiss Governance, Good Governance and Global Governance, 82.
while current approaches claim the goal of protecting women’s rights, they exacerbate gendered social structures that enable sex trafficking and allow the primacy of particular attitudes regarding prostitution and women’s sexuality to negatively affect care for trafficked women. The employment of care that is characterized by a relational approach to anti-sex trafficking policy would meet the needs of trafficked women by providing avenues for the process of autonomous reconstitution. This is applicable in the period leading up to decisions to migrate, during the migratory process, after arrival at the destination, and after having been trafficked. Understood thus, the key issue is not whether prostitution is a real choice. Rather, the critical moral ethnography provides a much more insightful explanation of trafficked women’s attitudes towards prostitution and sex trafficking. Most would not say that prostitution was their first choice of a job. Rather, many do wish for things like an education for themselves and/or their children, a house, economic security, independence and an end to discrimination. Yet, in working towards these goals even within the context of constrained choices, autonomy is exercised.

It is the responsibility of the international community to craft anti-sex trafficking policy that is embedded in a relationship with trafficked women that fosters, and not hinders, their autonomy. By structuring a different kind of relationship, the values that are important to trafficked women are fostered. At different levels of policy, these relationships are themselves interrelated, although their concrete expressions may vary. At the national and regional levels, it can take the form of disentangling anti-prostitution and anti-sex trafficking legislation, and providing support for initiatives that can help to foster trafficked women’s autonomy such as migrant resource centers and communities of judgment. As the body that provides guidance and acts as a check on the actions of states, the UN has the responsibility
to design a protocol that employs language geared towards the goal of fostering autonomy and persuades states to mirror their domestic policy as such. At all levels, care becomes the process and practice of using trafficked women’s moral knowledge as the reference point for policy. This would also serve as an acknowledgement of their capacity for reflective engagement. Thus, the relevant global governance mechanisms should be enabling rather than limiting. It is indeed possible for the three moral boundaries to be breached, even at the international level. The ethic of care can help to resolve debates over which/whose values are at stake and overcome the ambiguities generated by related debates regarding which/how women’s human rights are being violated. Furthermore, with an issue such as sex trafficking, it can do so and also be applicable across levels of analysis—national, regional and international—retaining “universal relevance and particularist sensitivity.”

In Chapter One, the ethic of care was defined with reference to an ontology that is rooted in human relations of dependence and independence which, in turn, give rise to certain responsibilities (and these vary according to context). At its heart, the weakness of current anti-sex trafficking policy and the associated attempts to end sex trafficking lie in an interpretation of the responsibility towards trafficked women that is not shared by the subjects of those policies. These unheard voices are crucial for adequate moral understanding. Creating pieces of global governance should not be a reflection of the moral will of the powerful, and it is ironic that a limited worldview forms the basis of the solution to a global problem. In accordance with the ethic of care, it would behoove the international community to begin paying attention.

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44 Hutchings *Feminist Perspectives on a Planetary Ethic*, 200.
Bibliography


—“Ouch! Western Feminists’ ‘Wounded Attachment’ to the Third World Prostitute.” *Feminist Review* 67 (Spring 2001), 16-38.


Reports


**Websites**


