

Prioritising Prosecutions is the Wrong Approach

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Response to ATR Debate Proposition: 'Prosecuting trafficking deflects attention from much more important responses and is anyway a waste of time and money'

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How do we define success in the fight against trafficking? In the news media and in the US State Department's *Trafficking in Persons Report*, the answer always seems to highlight the same narrow list: increased penalties, arrests and prosecutions. But even as these strategies receive the most attention and glory, they take our focus away from those who should be centred in the conversation—the victims and survivors. Ignoring their needs guarantees we will never end human trafficking. Criminal prosecutions are not the most important part of anti-trafficking work, and their prioritisation is moving us away from ever meaningfully addressing the problem.

While in the United States, law enforcement agencies use the rhetoric of 'victim-centred' approach, prosecutions are, by their very nature, not victim-centred. Prosecutions ask us to focus our time, attention and resources on the trafficker or other third parties, and the victim often becomes little more than a tool for that purpose. And while the trafficker may receive a long prison sentence, this outcome does nothing to help the person victimised find housing, or stable employment, or reunite with their children. For those leaving a trafficking situation, this often means returning to the conditions which made them vulnerable in the first place. So while one trafficker may be in jail, the next one will be there to take advantage of vulnerabilities that still persist.

To compound this, the process of prosecution often further harms the victims. Recounting traumatic events to numerous attorneys, case managers, and a jury can re-open wounds and re-traumatise victims who wish to move on with their lives. Prosecutors and investigators may ask victims to interact further with the trafficker to get needed information, or to delay applications for other remedies so as not to detract from the criminal case. At best, a successful prosecution might bring a sense of justice to the individual, and in rare instances can bring settlement to compensate for financial harms. At worst, it can re-open emotional wounds or even put victims in further danger.

Despite these unintended consequences, the criminal justice system remains the primary way that countries seek to end trafficking. Showing increasing numbers of arrests, prosecutions, and longer sentences are viewed as success in the fight against trafficking.

A trafficking situation never begins the day someone is trafficked. Often the story begins years earlier with poverty, housing and food instability, lack of education, labour exploitation, discrimination and/or domestic violence. These factors create the vulnerability that pushes many into trafficking and exploitative situations. In the Sex Workers Project study *The Road North*, which looked at the experience of trafficking victims who had emigrated from Mexico to New York, 75% described financial hardship in their lives leading up to the experience, 33% described food insecurity and 82% had not been able to continue their education beyond the tenth grade. Social isolation of LGBTQ communities, criminalisation of migrants and sex working communities, and proliferation of class and ethnic stigma are all contributing factors. When a sex worker cannot report violence for fear of arrest, they are vulnerable to victimisation by a trafficker. When a migrant fears deportation and remains bound to the employer despite working 20-hour days below minimum wage, they are vulnerable to trafficking. When a transgender young person cannot find a suitable shelter and is forced to either trade sex or sleep on the street, they are vulnerable to trafficking. When the only two options in a local area are to work for a factory paying poverty-level wages or complete destitution, trafficking and exploitation will flourish. We must see where we are manufacturing these vulnerabilities through our policies, and address these before someone is trafficked or exploited. Economic and social justice demands commitment to reforming our communities and societies, if we really do wish to end trafficking in persons. Prioritising prosecution above all other forms of anti-trafficking work diverts us from solutions which address this vulnerability—and solutions which seek to prevent human trafficking from occurring in the first place.

Trafficking is a crime of extreme exploitation; and it is the overarching economic and social injustice that frames the actions of both the victim and the victimiser. But when we simply arrest and prosecute, we still leave trafficking victims to struggle to find a way to survive in an economy dominated by inequality and exploitation. We must

address these root causes to get to the heart of anti-trafficking work. We must celebrate the work of unions which put in place labour protections, community organisations which support members in times of crisis, and gender justice organisations which address the marginalisation of women and transgender individuals, all of whom are doing invaluable work to stem and prevent trafficking and exploitation.

Prosecutions are fuelled by our justifiable outrage, but they can distract us from where we must centre our attention. By looking to those victimised, before and after a trafficking situation, we can find a way forward where we do more than punish trafficking—we prevent it.

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