defence of Australia's poor prosecutions record of traffickers, and has led to a situation where trafficked women are sometimes being treated as criminals or illegal immigrants (instead of victims of a human rights abuse).

Similarly, some organisations have been reluctant to acknowledge debt-bonded women in prostitution as being trafficked. Scarlet Alliance, for example, the national "peak body for Sex Worker Organisations / Projects / Groups / Networks", prefers the term "contract-worker" or "migrant sex worker", and uses a definition of trafficking much narrower than that provided by the Trafficking Protocol. In its *Submission to the Parliamentary Joint Committee on the Australian Crime Commission, Inquiry into Trafficking in Women for Sexual Servitude*, the organisation implies that women who have consented to come to Australia to do prostitution cannot be trafficked or in sexual servitude, regardless of their debt-bonded status (Scarlet Alliance 2003). This position appears to derive from concerns that any attempts to end trafficking will result in an over-policing of women in prostitution generally and the deportation of trafficked women, as articulated in the organisation's objections to the introduction of new anti-trafficking legislation (Scarlet Alliance 2004). While these concerns are certainly legitimate, the problem here lies in the adequacy and fairness (or otherwise) of criminal justice and immigration responses. A failure to recognise the extent to which trafficking exists does nothing to improve such responses[5], and clouds the distinction between trafficking and migration.

The causes of trafficking

Different theorists attribute different factors to the causes of trafficking depending on their theoretical approach to the issue of trafficking itself. A migration-based approach, for example, will focus on such issues as policies on migration and migrant labour, availability of work opportunities in various countries, globalisation of the economy and development strategies. A criminal-justice based approach focuses on legislation and its implementation, policing strategies, impediments to prosecution, and the involvement of organised crime. A human-rights based approach acknowledges the importance of criminal justice, but will situate the causes of trafficking in issues such as the abuse of power, corruption of authorities, discrimination, and state failure to protect civil, political, economic and social rights. Most feminist analyses encompass elements of all these approaches but situate inequalities of sex, race and class, and the power this gives some to abuse others, as central to any detailed analysis of the causes of trafficking. In this analysis trafficking is viewed in terms of exploitation of women and the harm it causes them. Feminist theorists in particular tend to situate male demand as the primary cause of trafficking (Raymond, Hughes and Gomez 2001, Leidholdt 2003, Jeffreys 2003).

The United States State Department has carried out some of the most extensive research into the efforts of governments to combat severe forms of trafficking in persons. In their view, trafficking in persons is a global market:

> "Victims constitute the supply, and abusive employers or sexual exploiters represent the demand. The supply of victims is encouraged by many factors including poverty, the attraction of a perceived higher standard of living elsewhere, weak social and economic structures, a lack of employment opportunities, organized crime, violence against women and children, discrimi-

> nation against women, government corruption, political instability, armed conflict, and cultural traditions such as traditional slavery . . . On the demand side, factors driving trafficking in persons include the sex industry, and the growing demand for exploitable labour. Sex tourism and child pornography have become worldwide industries, facilitated by technologies such as the Internet, which vastly expand choices available to consumers and permit instant and nearly undetectable transactions" (United States State Department 2004: 19-20).

Sally Moyle, director of the Sex Discrimination Unit of the Human Rights and Equal Opportunity Commission, outlined some of the complexities of pinpointing "causes" to trafficking at a recent conference. She spoke of the power imbalances that allow dehumanisation and "commodification" of others, and noted that "we will be likely to have trafficked, tricked and exploited women to service [the sex industry] so long as rich men think it is OK to continue exploiting young women" (Moyle 2002). While most theorists would agree that power inequalities of race, class and gender are contributing factors to trafficking, there is less said about how each factor operates in different ways. Moyle, however, dissects each one:

> "Race issues are certainly embedded in any consideration of trafficking. However, these issues are flexible - they can change with opportunity. Look at the monstrous increase in trafficking of women from Eastern Europe over the last decade while those who exploit those trafficked women are able to "racialise" them - to use their race or culture to disadvantage them" (Moyle 2002).

Moyle argues that while women's ethnic identities are certainly "exoticised" and sexualised in trafficking, this results from a largely opportunistic exploitation of the economic disadvantage of certain groups of women. Not that economic disadvantage alone can be considered the sole "push factor" of trafficking, as "not all equally poor people are equally vulnerable to trafficking" (2002). So, while acknowledging that different forms of discrimination and inequalities intersect in the case of trafficking, Moyle comes to the conclusion that sex discrimination is the one constant factor behind trafficking for sexual exploitation:

> "I contend that even if we addressed the worst of these economic inequalities (somehow), while we might see the problem of trafficking recede, we would still see sexual slavery, servitude and trafficking in women, so long as we failed to address the gender inequalities that lie at its heart … People are vulnerable to being trafficked because often they lack education; they more often have limited job opportunities; they are, and consider their lives to be, subject to the direction of their families; they often lack self-esteem; and because they are able to be viewed as commodities - by themselves, their communities and those along the trafficking chain, and throughout the world, who would exploit them. These are generally characteristics that apply to women. I believe trafficking is a gender issue" (Moyle 2002).

Trafficking is increasingly being examined, particularly in the field of development studies, as a consequence of the globalisation of markets and labour (see, for example, Global Alliance Against Trafficking in Women and International Labor Organisation research and newsletters). It is undeniable that the scale of trafficking in women for sexual exploitation appears to have increased dramatically over the last two decades in the wake of globalisation of the economy, increased international migration and the feminisation of poverty

(United Nations Office on Drugs and Crime 2005). However, research by Kathleen Barry for her book *Female Sexual Slavery*, as early as 1979, and that of her contemporaries, indicates that large-scale trafficking in women clearly existed prior to current levels of market and labour globalisation. This would suggest that situating the causes of trafficking solely in terms of economic or migration issues cannot account for why the majority of those trafficked are women and girls, nor why they are most often trafficked into *sexual* exploitation (United States State Department 2004).

International responses

UN instruments and feminist responses

Among the earliest international conventions applicable to trafficking are the two slavery conventions: the League of Nations *Slavery Convention* of 1927, and the United Nations *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* of 1957. Under these conventions State Parties are required to prohibit slavery and slavery-like practices, including debt-bondage, forced marriage and the "transfer" of women by members of their family for "value received" (United Nations General Assembly 1957, Article 1). These conventions did not specifically define or prohibit "trafficking", but they cover some aspects of it and remain valid.

Before the 2000 Trafficking Protocol, the only international treaty on trafficking was the United Nations 1949 *Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* (hereinafter referred to as the 1949 Convention), which consolidated several earlier treaties adopted by the League of Nations. The drafters of the 1949 Convention did not explicitly define trafficking because they saw it as "a cross-border practice of 'the exploitation of the prostitution of others'" (Leidholdt 2003: 175). "Trafficking in persons and the exploitation of the prostitution of others" encompassed the activities of an increasingly global sex industry whose activities were "incompatible with the dignity and worth of the human person" (Markovitch 2002, citing United Nations General Assembly 1949). Under Article 1 of the 1949 Convention, State Parties agree to punish any person who:

1) procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
2) exploits the prostitution of another person, even with the consent of that person (United Nations General Assembly 1949).

That is: traffickers are to be prosecuted (along with other "third-party profiteers" such as pimps and brothel owners), but trafficked and prostituted women are not[6]. In limiting its scope to trafficking for the purpose of sexual exploitation, and in drawing no real distinction between the terms "trafficking" and "exploitation of the prostitution of others", the 1949 Convention has provoked different reactions from theorists, depending upon their views on prostitution. In many respects the 1949 Convention reflects the view, held by many feminists and women's human rights activists, of prostitution as a form of violence against women for which the perpetrators should be punished and not the victims (Jeffreys 2003, Leidholdt 2003; Barry 1979). Australia has not signed this convention.