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Thinking beyond the Category of Sexual Identity: At the Intersection of Sexuality and Human-Trafficking Policy

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"Intersectional analysis," or "intersectionality,"¹ is a concept that is widely used in various academic disciplines to explain and articulate the oppressions faced by the "multiply minoritized" (Vidal-Ortiz 2006), those marginalized by their sex, gender, sexuality, race, class, and national identities. We are concerned that "sexuality" as an identity used in intersectional analysis is perhaps overly reductive, sometimes telling nothing more than whether someone is "straight" or "gay," rather than leaving room to interrogate the complicated, diverse landscape that is at the intersection of gender, sex, and sexuality. In this essay, we apply a queer-theory critique of intersectionality to demonstrate how human-trafficking policy, particularly as it relates to sex trafficking,² is productive of what Valentine (2007) calls culturally constructed and deployed identity categories, resulting in inclusion of some and exclusion of others. We aim to show how social science research that relies on

1. These two terms will be used interchangeably throughout this essay.

2. We make every effort in this essay to refrain from conflating all human trafficking with sex trafficking, as sex labor, in fact, makes up only part of the labor that persons are trafficked for on a global scale. Indeed, we point toward how the human-trafficking movement has placed what Rubin (1984) would call a "fallacy of misplaced scale" on sexual labor and exploitation. Therefore, our criticism is aimed specifically at fears and misperceptions about sex trafficking more so than labor trafficking in general.

normative identity categories can lead to incomplete intersectional analyses.

To achieve these goals, we outline a critique of intersectionality, followed by some of the challenges of using sexuality (and, by relation, gender) as a descriptive and theoretical category, and apply these challenges to the current construction of human-trafficking policy. We conclude with some brief suggestions on how to achieve a more robust intersectional analysis in social science research.

Queer Theory Critique of Intersectionality

U.S. scholars of color, such as Collins (2000) and Crenshaw (1991; 1993), adopted the concept of intersectionality to expand on both white U.S. scholars' concepts of sex and gender oppression and antiracist political frameworks, which tended to privilege the experiences of white women or men of color, without interrogating other identities that merged to create different experiences of marginalization. In contemporary literature, the concept of intersectionality is under scrutiny as subaltern scholars continue to show how U.S. understandings of categories like race, class, gender, and sexuality are hegemonic, and discussion of their intersections do not easily translate across all experiences. Puar's (2005, 122) critique of queer liberalism and U.S. nationalism can be expanded to a more broad understanding of this problem: "I am taking issue with (queer) theorizing that, despite (and perhaps because of) a commitment to an intersectional analytic, fails to interrogate the epistemological will to knowledge that invariably reproduces the disciplinary interests of the U.S. nation-state." In other words, it is not enough to acknowledge how various identity categories intersect with one another when the various identities themselves have socially constructed meanings.

Some of the most salient critiques of the intersectional model have come from queer theory, perhaps because of the ways in which it is well suited to examine the fluidity of identity and non-normativity in the social world. Queer theory interrogates "sexuality" as a category in intersection with others, resulting in a challenge to expand our understanding of intersectionality or, in some cases, to abandon it altogether. We highlight three main critiques of intersectionality from queer-theory literature: 1) Intersectional analysis occurs within a socially constructed context where meanings are determined and assigned by dominant members of society; 2) intersectionality too often employs identities that

are U.S.-centric and not universally understood; and 3) social science data are interpreted through these socially constructed meanings that reinforce stereotypical understandings of identity.

Various critiques of intersectional analysis point to the way in which our very understanding of identity is often raced, classed, and gendered, resulting in the essentialization of identities such as “gender” and “sexuality.” Duggan (2003), Ferguson (2005), and other scholars examine the lesbian, gay, bisexual, transgender, intersex, queer (LGBTIQ)–rights movement within the United States and explain how, through various forms of exclusion within the movement, “gay” has come to mean “white” and “male.” In the case of the LGBTIQ-rights movement, the dominant group — white males — determines the boundaries within which gay identities can be formed, excluding those who do not fit the normative understanding of this sexual identity in an effort to protect their hard-won acceptance into the U.S. mainstream. According to Puar (2005, 128), “Intersectionality privileges naming, visibility, epistemology, representation, and meaning,” all of which result in an idea or fantasy of a stable identity, yet not all people who engage in homoerotic relationships are included in, or choose to identify with, the mainstream gay identity, or, on the flip side, not all people who are labeled as “gay” or “queer” are so labeled because of their sexual behavior.³

Similarly, intersectionality is criticized for being situated in a U.S.-centric way of knowing that excludes the experience and identity of those who do not fit this norm. Purkayastha (2010) explains how, in her experience as a South Asian immigrant to the United States, racial and class identity, in particular, change depending on the location in which she finds herself. One might be a racial or ethnic minority in the United States, but a member of the ethnic majority in one’s country of origin. The same might apply to one’s class status, where one occupies a lower rung on the economic ladder in the United States but is a member of the wealthy elite in one’s home country. She suggests that while the intersectional model is still useful, it needs to be expanded to include other cultural explanations and understandings of identity, as well as fluidity of identity.

Puar (2005, 127), in contrast to Purkayastha, argues that intersectionality is quite limited in its application and suggests a model of “Deleuzian

3. For an example, see Puar (2007), where she argues how the “queering” of male, Arab, and Muslim bodies results in a kind of sexualized othering, complicating assumptions about identity and intersectionality.

assemblage, as a series of dispersed but mutually implicated networks” that do not rely on naming identities as much as they depend on varied experience. She argues that it is these experiential ways of knowing that may have more to do with one’s cultural and temporal location than one’s association with various prescribed identities. Puar’s point is most importantly made in regard to religion and nationality, where, she argues, U.S. hegemony extends to a deployment of intersectional identities that fail to account accurately for the experiences of Arab and Muslim persons. For Puar (p. 128), epistemology is to intersectionality what ontology is to assemblage, meaning that intersectionality relies on productive knowledge of identity categories, whereas assemblage relies on the fluidity of ways of knowing and being. This is echoed by Valentine (2007, 131), who suggests that “‘identity’ can erase the intersections of different kinds of social experiences, more often than not asserting the experience of white, middle-class U.S. American social actors as the implicit exemplary center.”

Valentine (2007), along with Mukherjea and Vidal-Ortiz (2006), expand on these critiques to show how stereotypes and assumptions held by social science researchers, service providers, activists, and more result in interpretations of data that rely on stable identities to explain behavior. For Valentine, identity categories are productive, not essential, and in order for them to be used effectively and understood, there must be some buy-in from the population to whom they are applied. His examination of the identity category “transgender,” a term that has only been in common use for a little more than 20 years, shows how the category has become a way to exclude gender and sex-queer folks from the homonormative and gender-normative gay mainstream.⁴ He goes on to show how the adoption of the term is most common among those who have access to LGBTIQ support systems and social service programs, who have given the term meaning, but that there are many individuals who may fit the uniform definition of “transgender” but do not self-identify that way and how these differences often fall along distinct class and racial lines. In their discussion of the problems with relying on pan-ethnic racial categories in a study of HIV risk, Mukherjea and Vidal-Ortiz show how data analysis of men who have sex with men was biased by researcher perpetuation of sexualized and racialized stereotypes in their intersectional analyses that overidentified blacks and Latinos and underidentified whites and Asians as at risk.

4. For more on homonormativity, see Duggan (2003).

By way of example, we use the human-trafficking field as a case study of the relevance of these three critiques of intersectionality: that identities are socially constructed, often by dominant members of society; that identities are too often particular to U.S. understandings; and that researcher bias assigns meaning to identities.

Human Trafficking and Intersectionality

Human trafficking, while legitimized by national and international governmental bodies as a crime, is also widely understood to be a major human rights issue, one that lies at the center of two of contemporary society's greatest moral challenges: the regulation of migration and the regulation of sexuality. Applying the critiques summarized here, we aim to answer this question: How do these challenges to the intersectional model — paying particular attention to sexuality (and by relation, gender) as descriptive and theoretical categories — hold up when applied to a discussion of U.S. human-trafficking policy?

U.S. efforts to combat human trafficking are shown to have extensive international reach in two particular ways: 1) the powerful influence of U.S. feminist abolition and moral conservative lobbies on the language used in the drafting of the 2000 United Nations “Protocol to Prevent, Suppress, and Punish Trafficking in Persons” (UN General Assembly); and 2) the country reporting mechanism of the 2000 U.S. Trafficking Victims Protection Act (TVPA), known as the Trafficking in Persons (TIP) Report. While an extensive discussion of the U.S. influence on the drafting of the UN Protocol goes beyond the scope of this essay, there is evidence of two areas of contention that arose during the negotiations: the decision to particularize the experiences of women and children, singling them out as super-vulnerable to victimization, and the debate over the conflation of sex trafficking and voluntary sex work and whether the two should be treated separately (Chapkis 2003; Chuang 2006; Doezema 2010; Gallagher 2001). The meaning of “consent” was a point of powerful contention among advocacy groups on all sides of the voluntary sex work / forced sex trafficking debate in the drafting of the Protocol (Doezema 2010).⁵ Consistent with the first point in the

5. In the end, the UN Protocol does particularize women and children; the full name of the Protocol includes the statement “especially women and children,” even though many members of the committee expressed a strong desire to keep the language gender neutral. The conflict over the voluntary sex work/sex trafficking issue was complicated by the fact that there is no universal legislation of sex work across various UN member states. Voluntary sex work is legal in many parts of

intersectionality critique described previously, the result of U.S. influence on language used in the UN Protocol, an international instrument — namely, that women and girls are more vulnerable and less capable of consent — was that the making of meaning was determined and assigned by dominant members of society.

The second area where U.S. policy has influenced international trafficking efforts comes in the form of the annual TIP Reports, which are legislated by the U.S. TVPA. The TIP Reports are a U.S. “diplomatic tool” (U.S. State Department 2010) used to assess more than 175 countries and “the extent of their governments’ efforts to comply with the ‘minimum standards for the elimination of trafficking’ found in Section 108 of the TVPA” (TVPA). Regardless of the UN Protocol and the language found within it, the TIP Report measures individual country compliance with “minimum standards for the elimination of trafficking” as defined by U.S. *legislation* on trafficking.⁶ Suffice it to say, acknowledging how influential U.S. *national* policy regarding prostitution — one that is largely that of universal criminalization — is applied to *international* efforts to combat sex trafficking points to the second intersectionality critique mentioned, where too often, U.S. ways of knowing or meaning are assumed to be universal across the globe. A transnational anti-trafficking movement that overidentifies with U.S.-centric meanings about commercial sex, sex workers, and other culturally defined characteristics fails to take into account the complicated, nuanced realities of diverse cultural locations.

The third critique is perhaps the most important to this discussion about human-trafficking policy and the use of gender, sex, and sexuality in intersectional analyses inasmuch as these descriptive categories may fail to explain accurately the lived experiences of individuals vulnerable to exploitation and trafficking. So many of the policies that concern sex trafficking revolve around heteronormative ideas about commercial sex, where sexual exchange is always heterosexual and where girls or women are always the seller and the buyer always male (Dennis 2008). Due to

the world, requiring the Protocol to distinguish between that and forced sex trafficking. The Protocol definition includes a consent statement, which allows states to distinguish between consenting adults and coerced adults when it comes to sex work and trafficking.

6. The TIP Report ranks countries on a three-tiered scale, where those ranked second tier or third tier face the risk of losing nonhumanitarian USAID monies for noncompliance. This is further complicated by the “anti-prostitution pledge,” which denies USAID monies to any international and national nongovernmental organizations that refuse to adopt an abolitionist or criminalization stance on prostitution, a move that has hindered the work of HIV/AIDS-prevention organizations and sex-worker rights organizations around the globe.

this heteronormative understanding of commercial sex exchange, identification of victims and perpetrators tends to overidentify women and girls as victims and men as perpetrators, resulting in policies and practices that actively exclude the experiences of men who are trafficked (Surtees 2008). There is little room in the gendered trafficking discourse to understand the experiences of those whose gender and sexuality are fluid and transgressive, and as a result often make up a significant proportion of those who experience extreme forms of stigmatization and marginalization, including gay and transgender individuals, particularly those who are people of color (Valentine 2007).

When it comes to understanding the transnational crime and human-rights violation that we have come to understand as “human trafficking,” are social scientists overrelying on the universal, essential meanings of identity categories like sexuality and gender? Is it possible that data that are meant to measure the occurrence of sex-trafficking cases misrepresent the sex and gender of victims? We argue that the policies and practices put in place to combat trafficking have, in effect, become productive of identity categories, leading to biased measures of how intersections occur among victims and perpetrators. In her research for the International Organization for Migration on male victims of trafficking in Belarus and Ukraine, Surtees (2008, 11) explains: “Some men may not see themselves as trafficked. . . . [T]he terminology of ‘trafficking victim’ and the social construction of ‘victimhood’ may be problematic for some men to accept and apply to their situation. As such it is not only about what services and interventions are developed but also how these interventions are framed and offered to trafficked males.” If data-collection instruments like surveys, for example, only ask questions about women and girls, or if “victim” is a gendered identity, then the data will only tell us part of the story. Descriptive data can tell us something about the ways in which identity intersects to leave some individuals more vulnerable than others, but the use of categories without a sophisticated understanding of sexuality, gender, race, class, and nationality as identities and how they are socially understood runs the risk of misrepresenting experience.

Conclusion

The use of human trafficking as a case study demonstrates that policy informed by essentialized identities risks reproducing the very marginalization it aims to mitigate, and that using intersectionality as an analytic tool does not automatically account for the complex experiences

of those on the margins. While we are no doubt limited by language in the research process in that we must agree on universally understood terms in order to collect data on various populations, the critiques explained here highlight the ways in which social science must continue to challenge its own tendency to essentialize and normalize identity. While the turn toward intersectionality was a move to make coherent the multiply minoritized, it has, in effect, made more visible the entanglement of identity. As Ferguson (2005, 66) states: “In the intersections is where we fashion languages against coherence. Intersections are necessarily messy, chaotic, and heterodox. Why necessarily so? Because intersections are not about identity”; they are about social formations.

We are not the first to make the suggestion that it is imperative that social science research exploring intersections of identity benefit from thick description through the use of qualitative and ethnographic methodology.⁷ This is not to suggest replacing quantitative measures with qualitative ones, but rather to recognize and value how qualitative methods allow for a more nuanced telling of the story of identity and intersection. Although it requires more time and human resources, qualitative research, with its attention toward individual narratives and historical context, is a necessary contribution in order to achieve a more complex intersectional analysis and, thus, tell a more complete truth about people’s lived experiences.

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7. We echo the conclusion of Mukherjea and Vidal-Ortiz (2006); see also Wibben (2011), who develops a feminist, narrative approach to security studies to illustrate this point within international studies.

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