

A Tale of Two Migrants: Farmworker and Sex Worker

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To the U.S. government, the police, the press and most people, there are two kinds of undocumented immigrants. Danilo Lopez is one kind. “Rose” is another.

Lopez is a migrant Mexican farmworker employed in Charlotte. Since his arrival five years ago, he has become an effective, beloved organizer for the grassroots organization Migrant Justice. Vermonters learned his name when a routine traffic stop near Middlesex last September led to the initiation of deportation proceedings against him. Migrant Justice and other activists swung into action to persuade the U.S. Immigration and Customs Enforcement (ICE) to let him stay.

The campaign gained the support of the governor and the Vermont congressional delegation; it won state legislation to improve migrant workers’ lives — prohibiting racial profiling by police, including undocumented workers in single-payer health care and granting them “driver’s privilege cards.” And on Tuesday, ICE granted Lopez permission to stay in the country at least another year.

“Rose” is the pseudonym of a Korean masseuse at Seiwa Spa in Essex. Also possibly undocumented, Rose has been in the U.S. about a decade, in New York and Vermont. Along with rubdowns of the non-erogenous zones, she offers clients hand jobs and perhaps other sexual services. Three days after *Seven Days*’ exposé last month of Seiwa and similar establishments in Chittenden County, the place shut down. Rose’s whereabouts are unknown.

The “chatty” and “affectionate” Rose told reporter Ken Picard that she was on duty day and night, seven days a week, was paid only in tips, and lived on the premises. The one place in the area she could identify was the Macy’s where she bought makeup. She didn’t know the name of Lake Champlain. The establishments Picard visited had covered or barred windows, locked doors (from the inside), surveillance cameras and no visible computers or cashiers. His sources called these typical features of illicit businesses “red flags” that the workers were being held captive.

Of the lives of Vermont’s 1200 to 1500 migrant dairy farmworkers, Migrant Justice says: “Workers typically work 60 to 80 hours per week and endure extreme isolation, often without a clear sense of where they are.” They exist in “highly restrictive living and labor environments, and are overly dependent on employers to meet their basic needs. The great majority of workers lack basic freedoms like the ability to gather as a community, go to the hospital, or go to the market.”

The organization describes Lopez’s situation in the context of trade agreements that have decimated family farming in both Mexico and the U.S., forcing Mexicans to cross the border for work and Vermont farmers to hire them at low wages. But because migrant dairy hands, like other “unskilled” workers, can’t get work visas, they live as criminals in a country that depends on their labor.

Law enforcement and victims’ advocates describe Rose’s situation differently. They suspect she

was brought here by diabolical operators who prey on girls and women, promising legitimate jobs at good pay in another country, then enslaving them in the sex trade once they arrive.

Because he is a man, Danilo Lopez is generally believed to have come to the U.S. of his own volition. To some, that makes him courageous and self-sacrificing, one of those hardworking, churchgoing, family-loving immigrants President Obama talks about. To others, he is a “wetback” who’s come to steal our jobs and mooch off our welfare system.

Because she is an Asian woman, Rose is assumed to be docile and guileless (the performance of these traits is her appeal as a prostitute, too). She must have been tricked or kidnapped by some other sinister Asian — echoes of the 19th-century “white slaver” — because surely no one would choose to come to the Land of Opportunity to give hand jobs.

Migrant Justice calls Lopez the subject of “human rights and workers’ rights abuses.” Law enforcement and prostitution abolitionists call Rose a victim of sex trafficking — a slave. In fact, simply doing sex work — even if not by “force, fraud or coercion” — defines Rose as a victim under the federal Trafficking Victims Protection Act (TVPA).

His exploitation is viewed as economic, hers as moral. To supporters, Lopez needs organizing. And Rose needs rescue.

Under U.S. law, work is work and sex is sex. Sex work is not work: It is a crime, either by or against the person doing it. If the sex worker is a foreigner who can prove she is a victim of “severe forms of trafficking,” she is exempt from punitive immigration law. But sorting the “guilty” from the “innocent” migrant sex workers isn’t easy. Cops frequently “mistake” trafficking victims for ordinary prostitutes and arrest, release or order them to immigration court. The alleged victims themselves are no help.

“Williston police had been receiving reports about the activity at Harmony Spa for years,” WPTZ News reported in Vermont, “but were unable to act on their information because, when questioned, the female employees would never admit they were victims.”

This confusion is historical — and, say critics, deliberate. The impetus and language of antitrafficking law came from feminists and evangelicals who believe all sex work is coercion and want to abolish prostitution. But, by the time these people began to influence policy, sex workers were organizing for rights, not rescue. The term “trafficking” was strategic: It resonated not just with conservatives but also with labor-rights activists concerned about abuses in the mobile global economy.

“‘Trafficking’ has become a way to talk about the internationalized aspects of things that have been happening for a long time — kidnapping, forced labor, lying to someone about being hired when they are actually being entrapped in a bondage scheme — as if they were one distinct phenomenon,” says University of Massachusetts Amherst gender and sexuality studies professor Svati Shah. “But ‘trafficking’ basically means prostitution” — including the voluntary kind.

Although many experts believe forced, unpaid labor in factories, homes or restaurants is more prevalent than sexual slavery, it was not until 2000 that antitrafficking law mentioned other forms of labor, according to Alicia Peters, an assistant professor of anthropology at the University of New England. Still, the Victims of Trafficking and Violence Protection Act of 2000, TVPA's precursor, was almost entirely about sex and women; it contained the statute that would later become the Violence Against Women Act. Federal and state laws (including Vermont's) still have two categories: sex trafficking and everything else.

That lets law enforcers put their energy where their passion is: into saving damsels they feel are in distress. U.S. Citizenship and Immigration Services (USCIS) gives "T-visas," four-year temporary residency and work permits, to immigrant victims of human trafficking. It doesn't grant many: With an annual quota of 5000, in 2012 USCIS approved 674. But it doesn't get many applications, either — 885 last year. This may be because the perilous price of the visa is the immigrant's cooperation in the prosecution of the trafficker. Maybe it's just that no rational undocumented person would turn to *la migra* for help. Or, as some observers believe, there aren't that many slaves (and no way of knowing).

If your work doesn't involve genitals, and you haven't been drugged and thrown in a shipping container, the government is not terribly interested in helping you. USCIS doesn't even compile data on what kind of work T-visa applicants do. (Why? "We don't have the coding," says USCIS spokesperson Anita Rios Moore.) Labor Department raids may fine employers, but they deport workers. ICE can take the boss' word and send the malcontents home, as happened when cheated and maltreated Mexican day laborers — the "Southern 32" — stood up for their rights in New Orleans.

For a poor person in Croatia or Fujian Province, there are ways and ways of making a living. You can scratch it out at home or pay a smuggler \$25,000 and try your luck in Germany or the U.S. There you'll find employment changing diapers, washing dishes or toilets, mowing lawns, mucking barns or pleasuring penises. Of these, sex work pays relatively well: Even a tips-only \$20 an hour is three times the minimum wage.

It is more the rule than the exception that migrants work 12, 18 or (in the case of live-in caregivers) 24 hours a day. But what keeps them there is not usually an evil captor: It is a vastly unequal global economy. Writes Shah: "Without addressing the contexts of livelihood and migration, the conditions that make sexual commerce a viable livelihood strategy for poor people around the world continue to exist."

Tightening the borders — which is part of the antitrafficking regime — only increases the price and risk to the migrant, and also her potential exploitation. "The laws meant to prevent trafficking make trafficking more likely," Peters says.

Similarly, criminalizing sex work fosters violence from police and clients, legitimizes discrimination and stymies demands for better working conditions, including safer-sex practices. This is why the United Nations Development Programme, UNAIDS and the World Health

Organization call for decriminalization, including the repeal of laws prohibiting brothel keeping — like those used to shutter Vermont’s massage parlors.

And, declares the UNDP’s Global Commission on HIV and the Law, “Anti-human-trafficking laws must be used to prohibit sexual exploitation and they must not be used against adults involved in consensual sex work.”

No work is intrinsically degrading. Migrant Justice was founded in 2009 after a Mexican farmworker was strangled when his clothes got caught in the gutter cleaner. He died sluicing cow shit from a barn. The organization’s first act was to bring his body home for a dignified funeral.

Vermont has shown reason and compassion in upholding the rights of men like Danilo Lopez. The same cannot be said for sex workers, unless they are designated as victims. Until proven otherwise, we should assume that Lopez and Rose are adults who’ve made choices under tough conditions. Both are workers. They should be treated the same.

Poli Psy is a monthly column by Judith Levine. Got a comment on this story? Contact levine@sevendaysvt.com.

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