



# Freedom Network USA

Special Rapporteur on violence against women and girls

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VIA EMAIL

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Ms. Alsalem:

Freedom Network USA (FNUSA) submits the following comments for your report on prostitution and violence against women and girls. FNUSA is the United States' (US) largest coalition of service providers and advocates working directly with human trafficking survivors and is committed to the human rights-based approach to human trafficking. Our 90+ members include survivors, legal and social service providers, academics, and advocates.

## **5. Perpetration of violence against women and girls in sex work**

While individuals commit acts of violence against sex workers, the state plays a significant role in creating the conditions in which violence is hidden and workers cannot safely report when they are harmed. Criminalization of sex work and social stigmatization, forces workers to work in secret, which decreases their ability to keep themselves safe, and they risk arrest when reporting violence and harm.

In most workplaces, collaboration increases safety. When sex work is criminalized, workers are unable to work safely. When sex workers can share information with each other about unsafe clients, details about where and when they are working, develop collaborative safety plans and check-ins, and work in the same location, they are able to create safe networks that prevent violence.<sup>i</sup> When the basic act of texting a friend where you'll be working for the day is criminalized, workers cannot keep each other safe. The partial decriminalization of sex work results in the same barriers to safety, as criminalized buyers do not allow sex workers to engage in safety measures. Sex workers and trafficking survivors have extensive knowledge of tools to keep each other safe, but surveillance and criminalization prevent them from protecting each other.<sup>ii</sup>

Those in the sex trades in the US also experience a high rate of violence at the hands of US law enforcement officials. Sex workers are routinely forced to engage in sex acts in order to avoid arrest. Law enforcement arrest sex workers without provocation, a highly traumatic and often physically dangerous experience. Possession of condoms is used in many areas as evidence of unlawful sex work, forcing sex workers to risk exposure to a range of illnesses.

## **6. Linkages between sex work and the violation of the human rights of women and girls**

Criminalization prevents sex workers from reporting abuse and seeking assistance because of the risk that they will end up with a criminal record. A criminal record results in housing instability, difficulty accessing safe work, and makes it significantly more difficult to meet basic needs, like healthcare, mental healthcare, substance use care, childcare, food, and necessities.<sup>iii</sup> Racism and xenophobia intersections lead to increased harm to BIPOC workers, especially Black trans women and Black, Brown, and Asian immigrants.<sup>iv</sup>

The criminalization of sex work subjects sex workers to forced evictions, arbitrary arrests, investigations, surveillance, prosecutions, and punishment. The addition of public nuisance laws in many US states enables law enforcement and the public to extort, harass, and harm sex workers with impunity. “Rescue raids” can push sex workers out of safe working environments and isolate them from safety networks.<sup>v</sup> In the US, these law enforcement operations often result in the arrests of sex workers and victims of human trafficking, forcing them into criminal proceedings or diversion courts.<sup>vi</sup>

Sex workers are frequently stigmatized by portraying sex work as a symptom or cause of mental illness, a moral wrong, and all sex workers as victims of exploitation. These misconceptions often influence child custody decisions, impacting sex workers’ parental rights. Even where sex work is not explicitly criminalized, administrative hurdles like mandatory registration and STI/D testing can marginalize parents who work in the sex trades.<sup>vii</sup> Sex workers also face these stigmas when accessing healthcare, especially reproductive healthcare. Healthcare and service providers have attempted to coerce sex workers into abortions or sterilization as they are perceived to be unable to care for their children because of their line of work. The criminalization of sex work causes family separation when sex workers receive prostitution charges and face incarceration ‘treatment’ programs. The stigmas sex workers face can prevent them from accessing legal support, knowing their fundamental rights, and asserting their family rights.<sup>viii</sup>

## **7. Links between pornography and sex work**

Online sex work can provide a safer environment for sex workers. With the rise of online platforms, sex workers can create content in a chosen, safe environment. However, when pornography is censored, workers are limited to in-person sex work where they may have less control over their own safety.

Crackdowns on online pornography in the US have resulted in further criminalization of sex workers and greatly restricted online tools workers use to keep themselves safe when engaging in online or in-person sex work. The 2018 Fight Online Sex Trafficking Act (FOSTA) allows for the prosecution of websites engaging in the promotion or facilitation of prostitution or if they facilitate traffickers in advertising the sale of unlawful sex acts with sex trafficking victims.<sup>ix</sup> The law has resulted in websites taking down platforms that sex workers used to vet clients and advertise services. Platforms have censored and removed content that promotes safe practices and safety networks for sex workers, assuming they can be prosecuted for hosting content that promotes safety for sex workers.<sup>x</sup> In a 2018 survey of 262 sex workers, 60 percent reported taking on potentially violent clients to make ends meet following the enactment of FOSTA. The percentage of participants who were able to screen clients dropped from 92 percent to 63 percent after FOSTA.<sup>xi</sup>

The conflation of consensual sex work and sex trafficking has fueled the criminalization of sex work in the US, resulting in a restriction of online safety tools and hampering efforts to identify potential victims online. Sites where sex workers share best screening practices, information about dangerous clients, and other safety practices censored this safety-related content in the years after FOSTA was enacted.<sup>xii</sup> Without the ability to screen clients and share safety information, sex workers are forced to take on more risk to earn a livable income.

## **9. Legislative frameworks and policies**

The anti-trafficking legal framework in the US has primarily focused on prosecution, rather than true prevention and survivor-centered services. Sex work is largely criminalized across the

country, resulting in the arrest and mistreatment of sex workers and sex trafficking victims under the guise of fighting human trafficking. These harmful policies are rooted in the conflation of sex work and sex trafficking and are largely ineffective in preventing trafficking, responding to violence against women in sex work, and protecting survivors of sexual exploitation and trafficking.<sup>xiii</sup> US policy has marginalized people in the sex trades, creating an increased risk of exploitation for sex workers, including those with lived experience of trafficking.

Criminalizing sex work forces workers into dangerous working conditions where they are more likely to experience abuse and violence. In addition, the overwhelming emphasis on prosecution draws attention away from primary prevention efforts and services for survivors of trafficking and exploitation. A significant portion of government anti-trafficking funding goes to law enforcement agencies, including funding that is designated by law for victim service providers. Service providers in every state struggle to meet the needs of clients within funding restrictions. Most cities lack specialized services, like those for LGBTQ+ survivors, men and boys, survivors with families, and survivors with disabilities. Long-term and emergency housing services are limited, and survivors who choose to work in the sex trades face discrimination in housing services.

There are very few primary prevention efforts in the US. The federal government instead funds awareness campaigns that have not been proven to prevent trafficking nor reduce the prevalence of trafficking. The US lacks a social safety net that would prevent people from experiencing poverty, housing instability, or debt, which make people vulnerable to exploitation, abuse, and trafficking. The lack of emphasis on primary prevention of trafficking in US legislation and policies has resulted in a priority for funding anti-trafficking non-profits and law enforcement over community-driven harm reduction and prevention efforts. Harm reduction programs are unable to find sufficient funding to ensure workers have access to basic needs and protective practices that help prevent violence and trafficking.<sup>xiv</sup>

## **10. Data**

There is little data measuring violence against women and girls in the sex trades in the US. Without an accurate measure of the current level of violence against sex workers, the US has little baseline understanding of how the criminalization of sex work prevents women from accessing safe housing, education, and safe jobs. In order to understand how violence against sex workers impacts women and girls' human rights, this data collection needs to be prioritized.

## **12. Obstacles to serving survivors**

Challenges in providing services to trafficking survivors include a lack of funding, the conflation of sex trafficking and sex work creating barriers to services, and mistrust of service providers by people working in the sex trades.

People working in the sex trades have faced harm from the anti-trafficking movement that has resulted in widespread mistrust of service providers. The prosecution-focus of the movement and conflation of sex trafficking and sex work have led to sex workers facing violence at the hands of law enforcement, harassment from anti-trafficking professionals, erasure of their experiences, discrimination, denials of access to basic services, and criminalization. When sex workers experience exploitation or trafficking, they often rightfully lack trust in the services available because of the harm they have experienced from anti-trafficking organizations.<sup>xv</sup> This prevents survivors from accessing necessary services and creates vulnerabilities to re-exploitation.<sup>xvi</sup>

#### **14. Policymaking involvement by frontline organizations and survivors' organizations**

The consideration of the expertise of people with lived experience of trafficking and sex work is insufficient in the US. When survivors of trafficking are brought on for consultation, those who engage in sex work or support the decriminalization of sex work are often excluded.

#### **15. Recommendations for ending violence against sex workers**

As explained throughout these comments, the criminalization of sex work in the US has created an environment that makes it difficult for sex workers to take steps and organize collectively to promote safety. Violence is not inherent to the sex trades, but reducing access to safety tools and forcing sex workers to the margins reduces safety and creates vulnerabilities to violence and trafficking.

Instead of continuing to criminalize consenting adults, FNUSA recommends the full decriminalization of sex work. All workers should be safe in their workplaces, no matter their profession. Decriminalizing sex work is a necessary pre-condition to decreasing abuse and exploitation within the sex trades. In the US, the path to decriminalization includes repealing local anti-loitering ordinances, decriminalizing sex work at the state and local levels, criminal record expungement for those with prostitution-related convictions, and repealing federal immigration policies that restrict the entry of anyone who has engaged in sex work.<sup>xvii</sup>

Decriminalization does not include removing penalties for assault, battery, sexual assault, rape, sex trafficking, child trafficking, theft, extortion, or any other form of force, fraud, or coercion against any worker.

By allowing sex workers to work in legal jobs where they do not fear arrest, workers will be better able to access necessary social services. Sex workers and customers will be more willing and able to identify trafficking victims and victims of other forms of violence, provide them with resources and information, and report instances of exploitation and abuse. Sex workers are also able to utilize greater harm reduction strategies when sex work is decriminalized, including bad date lists, screening of potential clients, working in teams, and negotiating terms with customers. Full decriminalization allows the government to shift resources to support the needs of both trafficking survivors and sex workers. This can boost primary prevention efforts that prevent trafficking before it occurs. Instead of funding law enforcement and court systems to arrest and prosecute sex workers, that funding should be redistributed to provide medical and mental healthcare, housing, food, legal representation, education, and employment training, all of which are protective factors against violence.<sup>xviii</sup>

Thank you for your consideration of these comments.

Sincerely,



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- <sup>i</sup> Global Network of Sex Work Projects, *The Impact of 'End Demand' Legislation on Women Sex Workers*, February 12, 2018, [https://www.nswp.org/sites/default/files/pb\\_impact\\_of\\_end\\_demand\\_on\\_women\\_sws\\_nswp\\_-\\_2018.pdf](https://www.nswp.org/sites/default/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf)
- <sup>ii</sup> Jennifer, Suchland, "What's Wrong with the US Federal Response to 'Sex Trafficking'?", *The Gender Policy Report*, 11 January, 2023, <https://genderpolicyreport.umn.edu/whats-wrong-with-the-us-federal-response-to-sex-trafficking/>
- <sup>iii</sup> Global Network of Sex Work Projects, *The Impact of 'End Demand' Legislation on Women Sex Workers*, 12 February 2018, [https://www.nswp.org/sites/default/files/pb\\_impact\\_of\\_end\\_demand\\_on\\_women\\_sws\\_nswp\\_-\\_2018.pdf](https://www.nswp.org/sites/default/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf)
- <sup>iv</sup> Freedom Network USA, "Position Paper: Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work," September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSASStatementDecrimSept2021.pdf>
- <sup>v</sup> Amnesty International, *Explanatory Note on Amnesty International's Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers*, 26 May 2016, <https://www.amnesty.org/en/documents/pol30/4063/2016/en/>
- <sup>vi</sup> Hannah Garry and Maura Reinbrecht, *Over-Policing of Sex Trafficking: How U.S. Law Enforcement Should Reform Operations*, International Human Rights Clinic at USC Gould School of Law, 15 November, 2021, <https://humanrightsclinic.usc.edu/2021/11/15/over-policing-sex-trafficking-how-u-s-law-enforcement-should-reform-operations/>
- <sup>vii</sup> Global Network of Sex Work Projects, *The Impact of Stigma and Discrimination on Key Populations and Their Families*, 27 November 2018. [https://www.nswp.org/sites/default/files/stigma\\_discrim\\_inpu\\_d\\_m\\_pact\\_nswp\\_-\\_2018\\_0.pdf](https://www.nswp.org/sites/default/files/stigma_discrim_inpu_d_m_pact_nswp_-_2018_0.pdf)
- <sup>viii</sup> Ibid.
- <sup>ix</sup> Allow States and Victims to Fight Online Sex Trafficking Act of 2017, Pub. L. No. 115-164 (2017), <https://www.congress.gov/bill/115th-congress/house-bill/1865/text>
- <sup>x</sup> Meghan Peterson, Bella Robinson, and Elena Shih, "The New Virtual Crackdown on Sex Workers' Rights: Perspectives from the United States," *The Anti-Trafficking Review*, issue 12, 2019, pp. 189-193, <https://antitraffickingreview.org/index.php/atjournal/article/view/385/326>
- <sup>xi</sup> Ibid.
- <sup>xii</sup> Kathryn Hausbeck Korgan, Alex Nelson, and Antoinette Izzo, "The Coercive Impact of FOSTA on Consensual Adult Sex Workers," *The Gender Policy Report*, 6 December 2019, <https://genderpolicyreport.umn.edu/the-coercive-impact-of-fosta-on-consensual-adult-sex-workers/>
- <sup>xiii</sup> Global Network of Sex Work Projects, *The Impact of Anti-Trafficking Legislation and Initiatives on Sex Workers*, 28 January 2019, <https://www.nswp.org/resource/nswp-policy-briefs/policy-brief-the-impact-anti-trafficking-legislation-and-initiatives-sex>
- <sup>xiv</sup> Freedom Network USA and National Survivor Coalition, *Re-Centering Sex Worker Safety in Anti-Trafficking Work: Perspectives from the Field*, <https://freedomnetworkusa.org/app/uploads/2023/10/Recentering-Sex-Worker-Safety-in-Anti-Trafficking-Work.pdf>
- <sup>xv</sup> Ibid.
- <sup>xvi</sup> In 2023, Freedom Network USA and the National Survivor Network worked with sex worker advocates and trafficking survivors to create guidelines for anti-trafficking service providers to make changes to policies and programs to prevent harm to sex workers in their efforts to provide services to survivors. See Freedom Network USA and National Survivor Coalition, *Re-Centering Sex Worker Safety in Anti-Trafficking Work: Perspectives from the Field*, <https://freedomnetworkusa.org/app/uploads/2023/10/Recentering-Sex-Worker-Safety-in-Anti-Trafficking-Work.pdf>
- <sup>xvii</sup> Jayne Swift, "How to End Violence Against Sex Workers," *The Gender Policy Report*, 14 December 2022, <https://genderpolicyreport.umn.edu/how-to-end-violence-against-sex-workers/>
- <sup>xviii</sup> Freedom Network USA, "Position Paper: Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work," September 2021, <https://freedomnetworkusa.org/app/uploads/2021/09/FNUSASStatementDecrimSept2021.pdf>