**Shadow Report Submission to:**

**UN Human Rights Committee and Special Rapporteur on violence against women and girls for the 56th session in June 2024**

**Submitted by:**

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**Sex Workers and Survivors (SWSU)** is a human rights coalition of sex workers and trafficking survivors, many of whom have experience both as a sex worker and as a trafficking survivor separately. SWSU developed as a forum for research and discussion between sex workers and survivors who are allied in their advocacy for human rights, harm reduction, trauma-informed care, and survivor and sex worker-led research.

Dear UN Human Rights Committee Members and Special Rapporteur on violence against women and girls,

Speaking as a human rights-centered group of sex workers and human trafficking survivors (Sex Workers and Survivors United), US law enforcement and related entities frequently conflate prostitution or sex work with human [trafficking](https://law.yale.edu/sites/default/files/area/center/ghjp/documents/issue_brief_sex_work_vs_trafficking_v2.pdf). Conflation of sex work and trafficking is dangerous and in many cases leads to people’s [death](https://www.amnesty.org/en/documents/pol30/4062/2016/en/).

Due to this conflation, adult consenting sex workers are dangerously stigmatized, criminalized, and made to have fewer legal protections and rights than the general public. This ranges from not being able to safely call police when assaulted, to fears of losing housing, unbanking and being unable to pay for basic needs. This policy-driven vulnerability forces many sex workers and trafficking survivors to return to their abusers and traffickers or homelessness and death.

US law enforcement’s largely unchecked power is illustrated with examples like [qualified immunity](https://www.usatoday.com/story/opinion/voices/2021/09/19/qualified-immunity-cop-sexual-assault-lynette-christmas/8240249002/) for police officers, the Supreme Court of the United States’ decisions on cases like Egbert v. Boulé that largely revoked the right to sue border patrol [agents](https://www.supremecourt.gov/opinions/21pdf/21-147_g31h.pdf). The systemic erosion of legal recourse and human rights protections for people in the US is [alarming](https://apnews.com/article/afghanistan-business-arizona-army-sierra-vista-2dd2790f0b68117f561a46a474421358) considering the disproportionately high number of law enforcement officers who commit domestic violence and sexual [assault](https://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=1066&context=themis); as well as the number of border patrol (CBP), police, and Immigration and Customs Enforcement (ICE) agents who are human traffickers.

The US routinely chooses not to follow evidence-based best practices and develop robust social safety nets. Poverty and homelessness are proven markers of [vulnerability](https://antitraffickingreview.org/index.php/atrjournal/article/view/674/509). But the US policies criminalize the most vulnerable people, create circumstances that perpetuate homelessness, uphold unbanking practices that leave victims unable to pay for their most basic needs and in some cases have led to death by unbanking, make resources for people with disabilities (people of determination).

Codified human rights abuses are further compounded by systemic racism in the US, the foster care to trafficking [pipeline](https://www.ojp.gov/ncjrs/virtual-library/abstracts/human-trafficking-victimization-among-youth-who-run-away-foster), and mass incarceration. These hidden forms of oppression in the US are deadly.

**The Relationship of Sex Work Criminalization to Trafficking Prevention**

*(Copied from our group’s shadow report submission to the UN Human Rights Committee on human trafficking in November 2023)*

One of the most significant barriers to preventing trafficking is the ongoing criminalization of [sex work](https://freedomnetworkusa.org/app/uploads/2021/09/FNUSAStatementDecrimSept2021.pdf). Such criminalization occurs through anti-“prostitution” laws as well as through laws against loitering, through “stop-and-frisk” police actions, through the closure of physical spaces where sex workers work indoors, and through FBI closures of websites such as Backpage that allowed low-income workers to advertise for free and thus to use the harm reduction practice of initiating contact with clients through an internet-mediated “interview” format rather than having to negotiate in rushed secrecy, face to face with clients outdoors or in a club. We are further profiled, arrested, and detained on the basis of where we live (i.e. poor neighborhoods face increased policing and government surveillance as to neighborhoods that are primarily non-white), on the basis of mental health status (several of us have been detained by police and sent to locked psychiatric wards in part due to our trading sex), and on the basis of gender, race, class, and LGBTQIA+ or Transgender and Gender Non-conforming (TGNC) status.

Because we are criminalized, sex workers are discriminated against by most public accommodations such as bars, restaurants, and banks; in non-sex work forms of employment; when trying to work collectively or advocate for ourselves in state and federal legislatures; in higher education; in housing applications; and even in trying to access the public services, healthcare, food stamps, and other public aid that might enable us to move from survival work toward higher-paying forms of employment.

We are left feeling discarded, with no safe options when denied access to housing, education, employment, health care, and any number of other services. With the work they do categorized as criminal activity, sex workers are significantly less likely to report [incidents](https://journalofethics.ama-assn.org/article/decreasing-human-trafficking-through-sex-work-decriminalization/2017-01) of violence and abuse. Non-citizen sex workers are placed at risk of being deported. Sex workers with children are in danger of losing custody. Each of these risks are direct consequences of placing criminal penalties on the livelihoods of sex workers.

Partial decriminalization yields the same [results](https://www.urban.org/urban-wire/partial-decriminalization-sex-work-could-cause-more-harm-good). Under common partial decriminalization models, paying for sex and managing or organizing sex workers would remain illegal, but sex workers could not be prosecuted for selling sex. In theory, this would result in protections for vulnerable sex workers and penalties for those who benefit from “exploiting” sex workers. However, in practice, partial decriminalization models such as these can have disastrous consequences for [sex workers](https://www.aclu.org/report/sex-work-decriminalization-answer-what-research-tells-us). In a comprehensive study, the ACLU found that even when clients are the alleged “target” of police, sex workers are at a heightened risk of violence when any component of sex work is criminalized. Partial decriminalization of sex work limits sex workers’ ability to negotiate their working conditions. This model also results in an inevitable increased level of interaction with police, as opposed to a full decriminalization model. Sex workers, particularly those who are black and transgender, are at an increased risk of experiencing [violence during police interactions](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1278&context=jlasc). One study in Baltimore, Maryland found that 78% of surveyed sex workers had experienced “at least one abusive encounter with [police](https://scholarship.law.upenn.edu/cgi/viewcontent.cgi?article=1278&context=jlasc).” Whether fully or partially criminalized, increasing police interactions and forcing sex work into the shadows can only result in more violence and harm towards sex workers.

Criminalization and its accompanying stigmas also make it difficult for people to transition out of sex work if they want to. Past convictions hold many trafficking survivors back from getting employment in the formal economy. Because there are no federal protections for sex workers in employment, to fire someone for being a sex worker or trafficking survivor is legal under federal law. Losing a job this way means that one is funneled right back.

**US Criminal Legal System and Mass Incarceration**

Nearly 2 million people are in US prisons today where they routinely die from inhumane conditions, or contract chronic illnesses that leave them disabled for [life](https://www.prisonpolicy.org/reports/pie2023.html). Approximately one-third (77 million) Americans have a criminal record that impedes eligibility for housing, financial assistance to attend college, and [employment](https://www.ncsl.org/civil-and-criminal-justice/criminal-records-and-reentry-toolkit#:~:text=Toolkit%20Criminal%20Records%20and%20Reentry%20Toolkit&text=Approximately%2077%20million%20Americans%2C%20or,housing%2C%20and%20higher%20education%20opportunities.). Circumstances for having a criminal record in the US varies and may include charges as erroneous and non-violent a wrongful arrest. Depending upon the state, record expungement can prove impossible. Given these insurmountable barriers, many people are faced with the narrow option of sex work or homelessness due to how challenging it can be to receive welfare or other social assistance in the US. Many trafficking survivors who have been wrongfully convicted when defending themselves from their traffickers have intractable felonies that revoke their right to vote. My little sister is one such survivor who lost her right to vote when she defended herself from her trafficker. She was then forced to give birth to his child in jail after being raped.

The grievous abuses of the US carceral system is even more grotesque when considering the [13th amendment](https://www.freedomunited.org/news/bill-end-legal-slavery-us/)’s loophole allowing for state-sponsored slavery in prisons. For this reason, trafficking survivors and sex workers are subjected to forced labor by the State. The hypocrisy is abhorrent, yet a completely legal remnant from America’s unrectified history of chattel slavery.

Inhumane immigration policies and racism also impact sex workers and their rights, as well as trafficking survivors. Red Canary Song’s 2022 [report](https://static1.squarespace.com/static/5e4835857fcd934d19bd9673/t/6218d9316e93a74b051c9f00/1645795656006/2022_Un-Licensed.pdf) details how Asian massage workers are disproportionately targeted by police. Violent state-sponsored discrimination endorses racism and deadly attacks on the community like the Atlanta gun [massacre](https://www.nytimes.com/live/2021/03/17/us/shooting-atlanta-acworth) in 2021.

**Reproductive Rights, Healthcare Access, and Abortion Rights**

When the Supreme Court of the United States ruled in 2022 that abortion rights were not federally protected, the majority ruling stated “The Court finds that the right to abortion is not deeply rooted in the Nation’s history and [tradition](https://www.supremecourt.gov/opinions/21pdf/19-1392_6j37.pdf).” One could interpret this to mean that the US’s deeply rooted tradition is to only grant rights to white land-owning men, the only group with their right to vote protected by the US Constitution when it was signed. One would hope we’ve progressed in protecting human rights since then, but voting rights in the US are routinely dismantled with legal voter suppression tactics.

There are an estimated 26,313 rape-related pregnancies in Texas 16 months after the Supreme Court’s decision to overturn abortion access [rights](https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2814274?guestAccessKey=e429b9a8-72ac-42ed-8dbc-599b0f509890&utm_source=For_The_Media&utm_medium=referral&utm_campaign=ftm_links&utm_content=tfl&utm_term=012424). Many states, including where I was trafficked as a child, have banned abortion even in cases of rape, trafficking, or incest, regardless of the victim’s age. I was 9 years old at my menarche when I was trafficked in several of those states.

If the US government actually wanted to end human trafficking, we would have free access to healthcare and bodily autonomy.

**Technology**

With the advent of AI, many sex workers and trafficking survivors’ images have been stolen and even used to depict them as children. It is nearly impossible to request having these images removed.

The US government prioritizes law enforcement’s power instead of protecting the most powerless populations. One example is how only half of states offer an [address confidentiality program](https://evawintl.org/wp-content/uploads/NCADV_AddressConfidentialityPrograms.pdf) for survivors. Many of these programs include impossible requirements like moving to a new address without assistance. When I applied for address confidentiality, it was suggested that I move into a homeless shelter in order to be eligible and not at risk of being murdered.

Data analysis for rates of trafficking and sex work are inaccurate for many reasons. Sex work data in the US cannot be accurate without decriminalization because the dangerous stigmas and risk of incarceration are too great, effectively driving sex workers to anonymity for their own safety. Decriminalization of sex work would create a safer environment in which sex workers could ask police for help.

Furthermore, human trafficking data in the US is known to be inaccurate and extrapolated from poor data collection methods and inadequate [aggregation](https://nij.ojp.gov/topics/articles/gaps-reporting-human-trafficking-incidents-result-significant-undercounting). These statistics are simultaneously overcounted and undercounted.

Identity theft and financial abuse are also considerations due to the increased risk of [poverty](https://www.consumerfinance.gov/about-us/newsroom/cfpb-helps-survivors-mitigate-the-financial-consequences-of-human-trafficking/).

Unbanking also causes sex workers to be more vulnerable to a myriad of harms including homelessness. There is virtually no way to appeal once the banking industry has unbanked a sex [worker](https://www.nytimes.com/2023/11/18/business/sex-workers-bank-accounts.html). Sex workers I know have been driven back to traffickers, violent abusers, or homelessness due to the lack of banking regulations protecting them from this financial abuse on a societal scale.

**Conclusion**

Investing so much into tools of punishment is ineffective.

The US is allocating entirely the wrong resources and implementing the wrong approach to ending sex trafficking. As a result, many people are suffering. Decriminalization of prostitution is trafficking prevention, and availability and access to resources is trafficking prevention. Criminalization only serves to keep people in the sex trade, by choice or force, alienated from support and unable to seek help.

Sex work needs to be decriminalized in order to protect the human rights of people seeking their own self determination and autonomy. Eroding or revoking these rights puts people at higher risk of being exploited, harmed, trafficked, or killed.

With decriminalization, more resources should be invested in communities in order to create more comprehensive, culturally responsive, robust safety nets. Because a society that protects people’s human rights and autonomy for self-determination will foster a culture that is more cohesive, creative, safe, and non-violent.