

SEX WORK, SEX TRAFFICKING, & LABOR RIGHTS

A PRIMER FOR HUMAN SERVICE ORGANIZATIONS, ADVOCATES, & ALL OTHERS



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AUTHOR'S NOTE

I wrote the majority of this work in the last several months of my social work graduate program. Looking back now, it seems like absolute lunacy for me to have added this voluntary workload to my already overflowing plate! However, I felt the need to gather together all of the work I was doing in school into a document that might actually make an impact in the real world. I had focused the majority of my program work on sex worker rights and intersecting issues, and was walking the tightrope between attempting to educate my classmates and professors about this still shunned area of human rights work while not revealing my own participation in the sex industry (which was technically against the school's code of conduct). This is a common experience for sex workers who go the social work route—advocating for your own rights with an air of passionate yet detached concern, so as not to show your hand and risk discrimination and/or expulsion.

The tipping point that prompted me to create this resource was the formation of a new “anti-trafficking” organization in my area. I realized that they were doing outreach to various human service organizations about their mission, spreading the usual myths and misinformation regarding sex trafficking—and raking in big federal grants in the process. I recognized the need for a counter-narrative that included evidence-based citations, accurate statistics, and a rights-based perspective, rather than a fear-based one. I first developed this as a presentation that I could deliver to human service organizations to help them equitably and sensitively serve the sex workers they undoubtedly already had as clients. Perhaps unsurprisingly, very few took me up on the offer!

use). By removing the conditions that increase the likelihood of trafficking, we can reduce incidents of exploitation for all people.



Harm reduction also looks like helping people access community services and supports without having to come in contact with the criminal justice system and other policing systems. Though arrest and reporting are framed as “rescue” by carceral viewpoints, moving through these systems creates more harm and barriers to receiving care and creating stability.

Use Non-Stigmatizing Language and Promote Self-Determination with Clients

Building nonjudgmental relationships is essential to providing comprehensive care that does not further stigmatize and harm those trading sex.⁵⁶ Learning how to be mindful with language invites trust and understanding.⁵⁷

Advocate for Policies that Reduce Poverty and Strengthen Labor Protections

Advocate for policies that help reduce trafficking, such as increased access to affordable housing, higher wages, universal healthcare, pay equality and employment access for all genders, increased financial support for families, universal childcare, migrant rights, more community supports for children and teens (comprehensive health, relationship, & sex education, access to non-punitive, safe housing for unhoused minors, policies that support and affirm LGBTQ youth), intimate partner violence prevention, racial justice, labor protections, and decriminalization (of both sex work and drug

⁵⁶ SWOP-Chicago. (n.d.). *Guidelines: Mental health professionals working with individuals involved in the sex trade*. https://www.swcsl.org/_files/ugd/abffc2_429b2df534964e0da26a20ee93edacdb.pdf

⁵⁷ Koster, K., & Kissner, E. (n.d.). *Language tips: Mental health professionals*. SWOP-Chicago. https://www.swcsl.org/_files/ugd/abffc2_0628c8f38dd54c32870cfab5bc3ccd2e.pdf

Now, with my degree and license under my belt, a bit more time on my hands, an all-time-low opinion of the nonprofit world, and an unwavering (yet often tested) faith in people’s power to make change, I’ve decided to make this into a zine so that all this work is doing something more than just sitting on my hard drive.

My hope is that this booklet will provide you with a better understanding of the incredibly nuanced fight for sex workers’ rights, and how it is integral to the fight for labor rights and the prevention of forced labor/sex trafficking. There are copious citations and additional resources included so that you can dive in deeper and learn more about the topic. Whether you are working in social services or just trying to get through a family dinner, I hope the information offered here gives you some tools to advocate more effectively for all people, regardless of what they do for work or what circumstances life has dealt them.

—Evelyn V, May 2023

Evelyn (she/her) is an artist, sex worker, and social worker currently living in Richmond, VA.

If you have comments, questions, would like to request additional copies, or would like to hire me to deliver a presentation to your organization, please contact me at evelynv123@proton.me.

OVERVIEW: DEFINITIONS OF SEX WORK & SEX TRAFFICKING

What is Sex Work?

The term “sex work” was coined by sex worker and activist Carol Leigh in 1978. Sex work is an umbrella term that covers a wide variety of sexual labor, including full-service sex work (traditionally referred to as “prostitution”), stripping, web camming, phone sex, modeling, pornography, professional domination, and more. While many forms of sex work are technically legal in the United States, much of it still lies in a grey area. All sex workers face heightened criminalization and danger due to stigma, discrimination, and lack of labor protections, regardless of the legality of their particular sector of work.

Who Does Sex Work?

Sex workers are everywhere! Due to social, legal, and financial repercussions, many or even most sex workers are not “out” about their work. Sex work is one of the few industries where women, trans, non-binary, and LGBTQ people can make more money than their cismale counterparts. For this and other reasons such as employment and housing discrimination, being excluded from the formal economy, needing access to money to escape an abusive situation, and/or needing a flexible schedule due to disability or childcare, many LGBTQ people, gender nonconforming/non-binary people, disabled people, migrants, people of color, and people with criminal records turn to sex work as a way to provide for themselves and their families.

extreme vulnerability of this population.⁵³ If you have access to spaces where policy and programs are discussed, ensure that sex worker voices will be included. Instead of being “a voice for the voiceless,” provide a platform for marginalized populations to speak for themselves.

Use Principles of Harm Reduction

Harm reduction is a principle that was created by and for drug users during the AIDS epidemic. In the decades since it was first practiced, there have been substantial data collected supporting its effectiveness⁵⁴. Instead of trying “save” people, it focuses on mitigating the harms they face from a violent system. Harm reduction requires a person-centered approach that treats the individual as an expert in their needs and does not seek to impose unwanted aid.⁵⁵ This can include providing safer drug use and sex supplies (such as condoms, fentanyl test strips, overdose prevention materials, baby wipes, menstrual materials, and hand sanitizer), offering anonymous STI testing, providing a space for sex workers to meet and share safety/skills information, and not requiring extensive personal information to access services.

⁵³ Global Network of Sex Work Projects. (2021b). *Evidence-based recommendations for service providers: Support sex workers' health & human rights* [Infographic]. https://www.nswp.org/sites/default/files/service_providers_sex_workers_health_human_rights.pdf

⁵⁴ Jaffe, A. (2019, April 22). How harm reduction is saving lives. *Psychology Today*. Retrieved May 26, 2023, from <https://www.psychologytoday.com/us/blog/all-about-addiction/201904/how-harm-reduction-is-saving-lives>

⁵⁵ Sex Worker Outreach Project. (2019). *Rights not rescue: How to be an ally to sex workers*. https://swopusa.org/wp-content/uploads/2019/02/How_to_be_an_ally_draft_2.pdf

repealed,⁵⁰ and “public order” or administrative laws that disproportionately affect sex workers (such as licensing rules that require public display of legal names and addresses, or zoning laws that place sex work businesses to unsafe and isolated areas) can be amended.

Educate Yourself and Your Team

Taking the time to learn about the differences in types of sex work and the challenges faced in different labor environments helps to avoid harmful assumptions and stereotypes. Myths and inflated statistics cause real harm when repeated uncritically.

Hire Sex Workers to Plan and Implement Programs

Sex workers are experts of their own experiences!⁵¹ Sex workers have gained valuable knowledge and can be indispensable consultants in policy and program creation.⁵² Adhere to the principle of “nothing about us without us.” Creating partnerships with sex workers requires slow and intentional trust-building, due to the

⁵⁰ NYCLU statement on the repeal and seal of the walking while trans ban. (2021, February 3). New York Civil Liberties Union. <https://www.nyclu.org/en/press-releases/nyclu-statement-repeal-and-seal-walking-while-trans-ban>

⁵¹ Global Network of Sex Work Projects. (2021a). *Guide for allies to meaningful partnership and engagement with sex worker-led organizations*. https://www.nswp.org/sites/default/files/briefing_note_for_allies_on_meaningful_partnership_and_engagement_2021.pdf

⁵² Benoit, C., Belle-Isle, L., Smith, M., Phillips, R., Shumka, L., Atchison, C., Jansson, M., Loppie, C., & Flagg, J. (2017). Sex workers as peer health advocates: Community empowerment and transformative learning through a Canadian pilot program. *International Journal for Equity in Health*, 16(1). <https://doi.org/10.1186/s12939-017-0655-2>

What is Trafficking?

Human trafficking includes forced labor by private companies, forced sexual exploitation, state-imposed forced labor, and forced marriage. According to a 2017 report¹ by the International Labor Office, there are 40.3M trafficking victims worldwide: 15.9M in forced labor, 4.8M in forced sexual exploitation, 4.1M in state-imposed forced labor, and 15.4M in forced marriage. The highest percentages of victims of forced labor are found in the domestic (3.8M), construction (2.9M), manufacturing (2.4M), agriculture/forestry/fishing (1.7M), and accommodations/food service (1.6M) industries. It should be noted that precise numbers are extremely difficult to obtain and vary greatly depending on methodology or lack thereof.²

What is Sex Trafficking?

Sex trafficking is defined in the US by the TVPA as “the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.”³ Severe forms of sex trafficking are considered “sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18

¹ International Labor Office. (2017). *Global estimates of modern slavery: Forced labour and forced marriage*. International Labour Organization and Walk Free Foundation. www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf

² Kessler, G. (2015, April 24). Why you should be wary of statistics on “modern slavery” and “trafficking.” *Washington Post*. <https://www.washingtonpost.com/news/fact-checker/wp/2015/04/24/why-you-should-be-wary-of-statistics-on-modern-slavery-and-trafficking/>

³ Victims of Trafficking and Violence Protection Act of 2000. 22 USC 7101. (2000). <https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf>

years of age.” While sensationalized accounts of trafficking are most commonly promoted,⁴ sex trafficking (as with other sex crimes) occurs more commonly in a familial, relationship, or foster care context.⁵

Conflation of Sex Work and Sex Trafficking

Sex workers deliberately participating in sexual labor are frequently misconstrued as trafficking victims, which leads to inaccurate statistics on the prevalence of trafficking, traumatic raids, increased surveillance, and financial discrimination.⁶ Conversely, trafficking victims are often arrested for prostitution, then retraumatized by the court systems and left unable to access victims’ services or leave the exploitative situation.⁷ Many legal tools fail to make a clear distinction between sex workers and trafficking victims, considering

⁴ Sardina, C. (2019, June 20). *Marketing mass hysteria: Anti-trafficking awareness campaigns go rogue*. openDemocracy. <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/marketing-mass-hysteria-anti-trafficking-awareness-campaigns-go-rogue/>

⁵ Piper, R. (2021, May 12). *How the war on porn distracts us from the realities of child sexual abuse*. Autostraddle. <https://www.autostraddle.com/how-the-war-on-porn-distracts-us-from-the-realities-of-child-sexual-abuse/>

⁶ Holston-Zannell, L. B. (2021, October 29). *How Mastercard’s new policy violates sex workers’ rights*. American Civil Liberties Union. <https://www.aclu.org/news/lgbtq-rights/how-mastercards-new-policy-violates-sex-workers-rights>

⁷ International Women’s Human Rights Clinic & Trafficking Victims Advocacy Project. (2015). *Criminalization of trafficking victims*. <https://www.law.cuny.edu/wp-content/uploads/page-assets/academics/clinics/hrgi/publications/Criminalization-of-Trafficking-Victims.pdf>

HOW YOU CAN SUPPORT SEX WORKERS & TRAFFICKING VICTIMS

There are many ways in which you and your organization can help both sex workers and trafficking victims. It is highly likely that you already have clients who are working in the sex trade; this puts you in a unique position to offer outreach and nonjudgmental care to a population that is often made invisible by stigma and fear.

Advocate for Decriminalization

Criminalization of sex work is determined on a state level; build coalitions across movements and organizations in your state to advocate for decriminalization! There are many other policies that can reduce harm and pave the way for decriminalization as well: prosecutors can decline to prosecute prostitution,⁴⁹ laws that criminalize “loitering for the purpose of prostitution” can be

⁴⁹ Rouhani, S., Tomko, C., Weicker, N., & Sherman, S. (2021). *Evaluation of prosecutorial policy reforms eliminating criminal penalties for drug possession and sex work in Baltimore, Maryland*. Johns Hopkins Bloomberg School of Public Health. <https://publichealth.jhu.edu/sites/default/files/2021-10/prosecutorial-policy-evaluation-report-20211019.pdf> ; Global Health Justice Partnership & Sex Workers Project. (2023). *Exercising discretion: A handbook for advocates and district attorneys navigating the possibilities and impacts of non-prosecution policies in the context of sex work criminalization*. https://law.yale.edu/sites/default/files/area/center/ghjp/documents/exercising_discretion_a_handbook_for_advocates_and_district_attorneys_navigating_the_possibilities_and_impacts_of_non-prosecution_policies_in_the_context_of_sex_work_criminalization.pdf

ACLU,⁴² Amnesty International,⁴³ the Human Rights Campaign,⁴⁴ Freedom Network USA,⁴⁵ the National Harm Reduction Coalition,⁴⁶ UNAIDS,⁴⁷ and the World Health Organization.⁴⁸

Examples: New Zealand, New South Wales & Northern Territory in Australia.

⁴² ACLU. (2020). *Is sex work decriminalization the answer? What the research tells us*. https://www.aclu.org/sites/default/files/field_document/aclu_sex_work_decrim_research_brief_new.pdf

⁴³ Amnesty International. (2016, May). *Amnesty International policy on state obligations to respect, protect, and fulfill the human rights of sex workers*. <https://www.amnesty.org/en/documents/pol30/4062/2016/en/>

⁴⁴ Morrow, N. (2019, June 4). *HRC supports D.C. decriminalization legislation*. Human Rights Campaign. <https://www.hrc.org/news/hrc-supports-important-washington-d-c-decriminalization-legislation>

⁴⁵ Freedom Network USA. (2021, September). *FNUSA position paper: Preventing sex trafficking requires the full decriminalization of sex work*. https://freedomnetworkusa.org/app/uploads/2021/09/FNUSAStatementDecrimSept2021.pdf?mc_cid=826a5428d2&mc_eid=6db2d5eb5b

⁴⁶ National Harm Reduction Coalition. (2021, September 15). *Sex work*. <https://harmreduction.org/issues/sex-work/>

⁴⁷ UNAIDS, *The gap report 2014*

⁴⁸ World Health Organization. (2021, June 24). *Sex workers*. <https://www.who.int/teams/global-hiv-hepatitis-and-stis-programmes/populations/sex-workers>

anyone selling or trading sexual services either a victim or criminal and erasing the agency of the individual in question.⁸

Additionally, these terms are not neatly reduced to a binary. In a country where migration is criminalized, labor commodification is high, and social welfare protections are low, many find themselves economically coerced into labor they may not choose otherwise. Most people can think of a job they have taken for no other reason than needing to pay bills, and yet would not consider themselves trafficking victims. There are also those who may fit the definition of both sex worker and trafficking victim: people who freely chose the work and yet are being exploited by having travel documents and/or compensation withheld. Those participating in the sex industry should be afforded the same right to self-determination as any other worker navigating this complex terrain.

MYTHS AND MANIPULATED STATISTICS

There are many figures and ideas that are frequently and uncritically repeated when discussing sex trafficking. While these are presented as hard facts, many have been debunked by looking into the sources where they originated. It is necessary to look for evidence-based materials and proper citations when considering statements made by organizations. An article in the Journal of Human Trafficking notes, “empirical research, especially participatory research with survivors

⁸ Global Network of Sex Work Projects. (2021). *NSWP statement on the high level meeting on trafficking of persons: Conflation of sex work and trafficking*. http://nswp.org/sites/default/files/nswp_written_statement_-_hlm_on_trafficking_in_persons_november_2021.pdf

of human trafficking is still not as robust as interest in the issue might suggest.”⁹

Myth: 300,000 children are trafficked in the U.S. each year.

This commonly repeated statistic comes from a 2001 University of Pennsylvania study that cites this figure as the number of minors and youth *at risk* for sexual exploitation, largely based on instances of youth homelessness. The authors of the study clearly state that this number does not reflect *actual* cases of exploitation, however, this detail has been ignored in the uncritical repetition of this number.¹⁰

Myth: The average age of entry into sex work is 13.

This false statistic appears to derive from two misquoted or deliberately manipulated studies: one was a 2001 study in which 210 child victims of sexual abuse were interviewed about their exploitation; another was a 1982 study that conflated age of *first sexual experience* (including kissing) with age of entering into the sex trade.¹¹

⁹ Goździak, E. M., & Vogel, K. M. (2020). Palermo at 20: A retrospective and prospective. *Journal of Human Trafficking*, 6(2), 109–118. <https://www.tandfonline.com/doi/pdf/10.1080/23322705.2020.1690117?needAccess=true>

¹⁰ McNeill, M. (2014, March 27). Lies, damned lies and sex work statistics. *Washington Post*. <https://www.washingtonpost.com/news/the-watch/wp/2014/03/27/lies-damned-lies-and-sex-work-statistics/>

¹¹ Hall, C. (2014, September 5). Is one of the most-cited statistics about sex work wrong? *The Atlantic*. <https://www.theatlantic.com/business/archive/2014/09/is-one-of-the-most-cited-statistics-about-sex-work-wrong/379662/>

Decriminalization

Decriminalization removes criminal penalties for consenting adults selling, buying, or trading sex, and removes penalties for organizing. Sex trafficking remains criminalized. Decriminalization reduces dangerous interactions between police and sex workers, protects migrant,³⁶ LGBTQ, and gender rights, grants labor³⁷ and economic protections,³⁸ reduces trafficking,³⁹ and reduces HIV/AIDS and other negative health outcomes.⁴⁰ Decriminalization is also a racial justice issue, as people of color are disproportionately targeted under criminalization.⁴¹ The ability to report violence without fear of arrest or harassment reduces the impunity to which bad actors have become accustomed. This is the model that the majority of sex workers are in favor of. It is supported by the

³⁶ Global Network of Sex Work Projects. (2017b). *Migrant sex workers*. https://www.nswp.org/sites/default/files/community_guide_migrant_sex_workers_nswp_-_2017.pdf

³⁷ Global Network of Sex Work Projects. (2017c). *Sex work as work* [Infographic]. Global Network of Sex Work Projects. https://www.nswp.org/sites/default/files/sex_work_as_work_v3.pdf

³⁸ Global Network of Sex Work Projects. (2020). *Economic empowerment for sex workers*. https://www.nswp.org/sites/default/files/economic_empowerment_for_sws_bp_prf01.pdf

³⁹ Jercich, K. (2020, December 8). *Want to reduce sex trafficking? Decriminalize sex work*. Rewire News Group. <https://rewirenewsgroup.com/article/2019/07/18/want-to-reduce-sex-trafficking-decriminalize-sex-work/>

⁴⁰ Data for Progress. (2020). *Decriminalizing survival: Policy platform and polling on the decriminalization of sex work*. <https://www.filesforprogress.org/memos/decriminalizing-sex-work.pdf>

⁴¹ Amnesty International USA. (2016, December 12). *From margin to center: Sex work decriminalization is a racial justice issue*. <https://www.amnestyusa.org/from-margin-to-center-sex-work-decriminalization-is-a-racial-justice-issue/>

still criminalized. The requirements & cost to register a workplace all but ensure that only the largest proprietors will be able to obtain licensing, thus criminalizing solo workers or those working together for safety.³² Licensing and other work requirements are more onerous than required for other forms of labor—extreme surveillance and restrictions on free movement create human rights violations.³³ Workers are misclassified as independent contractors; the restrictions on their work, (including handing over 50% or more of their earnings to the brothel, mandatory tipping of staff, paying for room, board, and health checks, and inability to leave the premises³⁴) should legally categorize them as employees, which would give them bargaining rights to create better working conditions. Worker misclassification is also a common labor issue for strippers (a legalized form of sex work) and is a form of wage theft.³⁵

Examples: Germany, Austria, some counties in Nevada.

³² Heineman, J., MacFarlane, R. T., & Brents, B. G. (2012). *Sex Industry and Sex Workers in Nevada*. In Dmitri N. Shalin, *The Social Health of Nevada: Leading Indicators and Quality of Life in the Silver State*. https://digitalscholarship.unlv.edu/cgi/viewcontent.cgi?article=1047&context=social_health_nevada_reports

³³ Dolinsek, S. (2016, July 7). *Sex workers fight against compulsory registration and identification in Germany*. openDemocracy. <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/sex-workers-fight-against-compulsory-registration-and-identification-in/>

³⁴ Willson, M. (2019, October 4). *Proposed Nye County brothel policy sparks backlash from sex workers, advocates*. Las Vegas Sun. <https://lasvegassun.com/news/2019/oct/04/proposed-nye-county-brothel-policy-backlash-sex-wo/>

³⁵ Shen, A. (2013, September 12). *Strip club illegally denied pay to exotic dancers by calling them 'independent contractors.'* Think Progress. <https://archive.thinkprogress.org/strip-club-illegally-denied-pay-to-exotic-dancers-by-calling-them-independent-contractors-92dad4ccb22b/>

Myth: Sex trafficking is the third largest organized crime enterprise worldwide/in the US.

Though many individuals and organizations repeat estimated revenues of sex trafficking, there is no evidence for these figures.¹² Estimates are misattributed, based on guesses, and/or are estimates for more broad categories, such as the sex trade as a whole, or all cases of human trafficking.¹³

Additionally, according to the ILO, only 4% of forced sexual exploitation victims are found in the Americas (North, South, and Central).¹⁴

Myth: The sex trade is inherently harmful and/or dangerous.

Selling or trading is not inherently more harmful than any other profession; what makes it more dangerous is criminalization, discrimination, and stigma. The inability to report crimes (particularly when law enforcement is the perpetrator¹⁵), lack of access to nonjudgmental healthcare, and laws that criminalize harm reduction practices are what makes sex work dangerous.

¹² Kessler, G. (2015, June 2). The false claim that human trafficking is a '\$9.5 billion business' in the United States. *Washington Post*. <https://www.washingtonpost.com/news/fact-checker/wp/2015/06/02/the-false-claim-that-child-sex-trafficking-is-a-9-5-billion-business-in-the-united-states/>

¹³ Lyon, W. (2013, July 8). *Popular claims vs. Evidence-Based conclusions in human trafficking*. Sex Work Research. <https://sexworkresearch.wordpress.com/2013/07/08/popular-claims-vs-evidence-based-conclusions-in-human-trafficking/>

¹⁴ ILO, *Global Estimates of Modern Slavery*, 39

¹⁵ Messick, B. (2019, December 19). *Details emerge in failed Arizona sex trafficking case*. Havasu News. https://www.havasunews.com/free_access/details-emerge-in-failed-arizona-sex-trafficking-case/article_0b905e98-22f0-11ea-828e-f2824fed350.html ;

Trujillo, J. (2021, May 6). *To decriminalize sex work, NYC must first defund NYPD's vice squad*. New York Civil Liberties Union. <https://www.nyclu.org/en/news/decriminalize-sex-work-nyc-must-first-defund-nypds-vice-squad>

HISTORY OF ANTI-TRAFFICKING LEGISLATION

Prior to the 19th century, the sex trades were largely segregated into “red light districts” rather than criminalized; it was viewed as a victimless activity. However, in the late 19th and early 20th centuries, young women began moving to cities and working in factories, supporting themselves, and dating. This generated a new-found fear, fueled by xenophobia, racism, and antisemitism, that innocent young white women would be kidnapped and sold into what was questionably termed “white slavery.”¹⁶ In the late 20th and early 21st centuries, much of the same fears and language persist. While preventing forced labor in all industries is often the stated goal, in practice, existing anti-trafficking laws have primarily produced human rights violations and have not been effective in reducing human trafficking.¹⁷

The Page Act of 1875

The Page Act targeted Chinese immigration; it was specifically designed to restrict the import of forced male laborers, women coming to the US for “lewd or immoral purposes,” and those with a

¹⁶ Hennigan, Peter C. (2004). Property war: Prostitution, red-light districts, and the transformation of public nuisance law in the Progressive Era. *Yale Journal of Law & Humanities*, 16(1), Article 5. 157-162. <https://digitalcommons.law.yale.edu/yjlh/vol16/iss1/5> ;

Lee, L. (2021). The roots of “modern day slavery”: The Page Act and the Mann Act. *Columbia Human Rights Law Review*, 52(3). https://blogs.law.columbia.edu/hrlr/files/2021/04/1199_Lee.pdf

¹⁷ Global Network of Sex Work Projects. (2018). *The impact of anti-trafficking legislation and initiatives on sex workers*. https://www.nswp.org/sites/default/files/impact_of_anti-trafficking_laws_pb_nswp_-_2018.pdf

working conditions as clients seek to avoid arrest.²⁸ Violence and murder have increased against sex workers, who are often arrested, deported, and/or evicted when trying to report crimes to the police, resulting in a culture of impunity for perpetrators of violence.²⁹ The criminalization of clients forces sex workers to work in more isolated areas and negotiate more quickly, which increases chances of violence.³⁰ Due to the reduction in clientele, workers’ bargaining power is diminished and they have reported a decrease in earnings and more pressure to engage in unsafe sex. This model particularly harms migrant sex workers, and encourages discrimination against all migrants.³¹

Examples: Norway, Sweden, France, Canada.

Legalization

Legalization, often confused with but very different from decriminalization, creates a state framework for registration and oversight. Migrants and marginalized groups may find it difficult to obtain the documents necessary for registration, and are therefore

²⁸ Amnesty International. (2016). *The human cost of “crushing” the market: Criminalization of sex work in Norway*. https://www.amnestyusa.org/files/norway_report_-_sex_workers_rights_-_embargoed_-_final.pdf

²⁹ Bachlakova, P. (2020, October 16). *Long read: How the Nordic Model in France changed everything for sex workers*. openDemocracy. <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/long-read-how-nordic-model-france-changed-everything-sex-workers/> ;

Smith, M. (2015, June 8). *The problem with the “Swedish Model” for sex work laws*. The New Republic. <https://newrepublic.com/article/121981/northern-ireland-sex-work-law-based-wrong-model>

³⁰ SCOT-PEP. (2019). *The Swedish Model*. https://decrimnow.org.uk/wp-content/uploads/2019/02/the_swedish_model_full.pdf

³¹ Global Network of Sex Work Projects. (2018). *The effect of “End Demand” legislation on women sex workers*. https://www.nswp.org/sites/nswp.org/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf

trans individuals are disproportionately harmed under criminalization.²⁵ Poor health outcomes, increased risk for HIV/AIDS, and increased violence are associated with laws criminalizing sex work.²⁶

Examples: US, Iran, Argentina, Iraq, Saudi Arabia.

The Nordic/“End Demand” Model

This model decriminalizes selling sex, but clients, organizing, and third parties remain criminalized.²⁷ Though proponents insist that sex workers are protected under this model, they are still arrested, barred from renting property, frequently evicted, and face dangerous

²⁵ Amnesty International USA. (2016, December 12). *From margin to center: Sex work decriminalization is a racial justice issue*. <https://www.amnestyusa.org/from-margin-to-center-sex-work-decriminalization-is-a-racial-justice-issue/>

²⁶ Platt, L., Grenfell, P., Meiksin, R., Elmes, J., Sherman, S. G., Sanders, T., Mwangi, P., & Crago, A. L. (2018). Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. *PLOS Medicine*, 15(12). <https://doi.org/10.1371/journal.pmed.1002680> ;

UNAIDS. (2014, September). *The gap report 2014: Sex workers*. https://www.unaids.org/sites/default/files/media_asset/06_Sexworkers.pdf ;

Global Network of Sex Work Projects. (2017a). *The impact of criminalisation on sex workers' vulnerability to HIV and violence*. https://www.nswp.org/sites/default/files/impact_of_criminalisation_pb_prf01.pdf

²⁷ Global Network of Sex Work Projects. (2016). *The decriminalisation of third parties*. <https://www.nswp.org/sites/default/files/Policy%20Brief%20The%20Decriminalisation%20of%20Third%20Parties%2C%20NSWP%20-%202016.pdf> ;

McBride, B., Shannon, K., Murphy, A., Wu, S., Erickson, M., Goldenberg, S. M., & Krüsi, A. (2020). Harms of third party criminalisation under end-demand legislation: Undermining sex workers' safety and rights. *Culture, Health & Sexuality*, 23(9), 1165–1181. <https://doi.org/10.1080/13691058.2020.1767305>

criminal record. In practice however, it was only seriously enforced against Chinese women, and served to exclude all Chinese women.¹⁸ This was due to prejudice against Chinese polygamous family structures, fears of miscegenation, and the desire to prevent Chinese families from having American-born children.

The Mann Act of 1910

Also known as the “White Slave Traffic Act”, the Mann Act was borne of xenophobic fears of immigrant men kidnapping women. It criminalized the transportation of “any woman or girl for the purpose of prostitution or debauchery, or for any other immoral purpose.” It was largely used to prosecute consensual sexual behavior that was considered immoral: extramarital, premarital, and interracial relationships, and in racist, antisemitic, and political prosecution.¹⁹ While this law has had amendments over the years, it is still in effect.

Victims of Trafficking and Violence Protection Act of 2000

The TVPA has a relatively narrow focus on sex trafficking only; provisions that would have provided more protections for victims of forced labor were removed out of fear of corporate backlash.²⁰ It focuses primarily on prosecution and less on prevention and

¹⁸ Abrams, K. (2005). Polygamy, Prostitution, and the Federalization of Immigration Law. *Columbia Law Review*, 105(3), 641-716. https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=6520&context=faculty_scholarship

¹⁹ Public Broadcasting Service. (2021, May 21). *The Mann Act*. Unforgivable Blackness: The Rise and Fall of Jack Johnson | Ken Burns | PBS. <https://www.pbs.org/kenburns/unforgivable-blackness/mann-act>

²⁰ Shoaps, L. L. (2013). Room for improvement: Palermo Protocol and the Trafficking Victims Protection Act. *Lewis & Clark Law Review*, 17(3), 931–972. <https://law.lclark.edu/live/files/15325-lcb173art6shoaps.pdf>

protection for victims. In order to receive victim services, a victim must be certified by law enforcement within 96 hours of being identified. Considering that many trafficking victims are arrested on prostitution charges, very few gain access to these benefits. Despite the focus on prosecution, very few traffickers have been charged under this law, and it has not been shown to reduce instances of trafficking.

Allow States and Victims to Fight Online Sex Trafficking Act of 2017

FOSTA amended Section 230 of the Communications Decency Act (which limited liability of websites for user-posted content) to make an exception for “conduct that constitutes sex trafficking, or conduct that promotes or facilitates prostitution,” allowing them to be sued for “facilitating or promoting the prostitution of another person.” This language is applied broadly, conflates sex trafficking with sex work, and has led to many sites censoring any content that is even slightly sexual.²¹ It has removed harm-reduction resources for sex workers, increased financial insecurity, had a chilling effect on online free speech for sex workers and activists, made it more difficult for law enforcement to locate trafficking victims, and led to an increase in workers returning to less-safe street-based work.²² It is

²¹ Chamberlain, L. (2019). FOSTA: A hostile law with a human cost. *Fordham Law Review*, (87)5, Article 13. <https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=5598&context=flr>

²² Blunt, D., & Wolf, A. (2020). Erased: The impact of FOSTA-SESTA and the removal of Backpage on sex workers. *Anti-Trafficking Review*, 14, 117–121. <https://doi.org/10.14197/atr.201220148> ; Hacking//Hustling. (2020). *Posting into the void*. <https://hackinghustling.org/wp-content/uploads/2020/09/Posting-Into-the-Void.pdf>

currently being legally challenged on the basis of violating the First Amendment and unconstitutionally being applied retroactively.²³

LEGAL FRAMEWORKS

The criminalization of sex work is an intersectional issue that touches many spheres: women’s, migrants’, and LGBTQ rights, police violence, racism, and poverty. The stigma, harassment, financial discrimination and seizure, lack of access to labor protections and healthcare, and lack of ability to report violent crimes due to various levels of criminalization creates a hostile environment that violates basic human rights.

The following models refer primarily to the legal status of full-service sex workers, though criminalization affects all types of sex workers and organizers.

Criminalization

Sex workers, clients, third parties, and activities that are considered “organizing” are all criminalized. The passage of FOSTA in the US has increased criminalization by conflating sex work and sex trafficking, and expanding—vaguely—what can be considered “facilitating sex trafficking” to include many harm reduction strategies such as screening clients & sharing safety information. Condoms are often seized as evidence under criminalization, which discourages safe practices by sex workers.²⁴ People of color and

²³ Woodhull Freedom Foundation. (2022, March 12). *Constitutional challenge*. <https://www.woodhullfoundation.org/fosta/>

²⁴ Human Rights Watch. (2012). *Sex workers at risk: Condoms as evidence of prostitution in four US cities*. https://www.hrw.org/sites/default/files/reports/us0712ForUpload_1.pdf