



Freedom Network USA

FNUSA Position Paper: Preventing Sex Trafficking Requires the Full Decriminalization of Sex Work (September 2021)

Freedom Network USA (FNUSA) is committed to a human rights-based approach to ending human trafficking and building racial equity. This approach recognizes that complex and interconnected factors, including poverty, racism, misogyny, and weak worker protections, fuel both labor and sex trafficking. FNUSA believes that the most effective way to support survivors and prevent human trafficking is to address the public policies driving these underlying injustices and expand survivors' access to services that respect their dignity and agency, and protect the safety of all workers in every industry.

Therefore, FNUSA supports the decriminalization of sex work that involves the participation of consenting adults. FNUSA has come to this position after years of collaboration and consultation with sex trafficking survivors, sex workers, harm reduction experts, criminal justice reform experts, racial and immigrant justice advocates, and human rights experts.

The future impact of decriminalization is difficult to predict. Existing research is generally inconclusive or contradictory, and the data are often particular to specific jurisdictions' political and social contexts. To remedy this knowledge gap, FNUSA calls for unbiased, longitudinal studies accompanying implementation in the United States to ensure that decriminalization increases the safety of people engaged in the sex trade. These studies must collect initial data before implementation to observe subsequent changes in sex workers' lives including, but not limited to their needs, experiences of abuse and exploitation, assessments of the pervasiveness of trafficking, how they respond when they identify potential trafficking, access to services and support, access to safety, and the barriers to exiting sex work. Policy makers and service providers should then use this information to mitigate unintended, harmful consequences and to design policies and programs that resolve unmet needs and face emergent challenges.

FNUSA strongly and adamantly believes that ALL workers should be safe in their workplaces and protected against force, fraud, or coercion. Recognizing the distinction between consensual sex work and sex trafficking is a critical first step in acknowledging and supporting the bodily autonomy and agency of all adults in their personal and professional lives. Sex workers are vulnerable to abuse and exploitation when they are unable to work safely and access needed or necessary services. It is important to understand that people in the sex trades have a myriad of experiences and may identify as sex trafficking survivors, sex workers, or both at different times in their lives. The criminal records that are now so common for people trading sex create barriers to safe housing, education, employment, public benefits, immigration status, and parenting. Decriminalizing sex work is a necessary pre-condition to decreasing abuse and exploitation within the sex trades, including labor and sex trafficking.

Decriminalization is the removal of criminal penalties from the act of selling sex acts, buying sex acts from consenting adults, and worker organizing to enable safety. This includes charges such as: prostitution, solicitation, and promoting prostitution. FNUSA does not support removing penalties for violence, coercion, and trafficking committed by customers, traffickers, or law enforcement. Purchasing sex acts from minors is sex trafficking, not consensual sex work, and would remain unlawful if consensual sex work is decriminalized. FNUSA does NOT support removing penalties for assault, battery, sexual assault, rape, sex trafficking, theft, extortion, or any other form of force, fraud or coercion committed against ANY worker. Decriminalization of sex work does NOT include these changes.

To be clear, decriminalization does NOT remove these penalties, and FNUSA does NOT support:

- removing penalties for sex traffickers;**
- removing penalties for the abuse of sex workers or trafficking victims; or**
- removing penalties for violence, threats of violence, force, fraud, or coercion of sex workers.**

Human trafficking is fueled by racism, misogyny, poverty, lack of affordable housing, discrimination, and restrictive immigration policies which create vulnerability to labor and sex trafficking. Traffickers take advantage of these factors and use force, fraud, and coercion to extract labor from those who are left without protection in a range of industries from agriculture to hospitality to sex work. Criminalizing the purchase of sex does not address the underlying factors that cause people to become trafficked, does not provide the services and support needed by trafficking survivors, and does not increase the investigation and prosecution of traffickers.

Criminalization of sex work in the US causes significant harm to those in the sex trade, including both consensual sex workers and sex trafficking survivors. It is rooted in patriarchal, xenophobic, and white supremacist ideals of controlling women's sexuality and gender expression and criminalizing interracial relationships. Demand reduction strategies center criminalization leading to arrest and perpetuating violence in these communities. Prostitution-related offenses disproportionately impact people of color, especially Black trans women and Black, Brown, and Asian immigrants. Criminalization causes the arrest and traumatization of those in the sex trades by agencies claiming to be investigating human trafficking.

When sex work is criminalized, sex trafficking victims and sex workers often avoid and fear encountering law enforcement. They hesitate to report crimes committed against themselves or others because of the high risk that not only will they be arrested but also that the abuse will not be investigated. Many sex workers have experienced physical or sexual violence during law enforcement encounters. Others do not trust law enforcement based on previous experiences of bias against their communities in the US or abroad. Immigrants may fear that any contact with law enforcement will lead to their deportation. Therefore, when law enforcement uses raids and stings to attempt to identify trafficking victims, they frequently cause emotional and even physical harm to sex workers and potential sex trafficking victims, including more arrests of workers than of traffickers.

Decriminalization, instead, allows sex workers and survivors to contact law enforcement and other helping professionals for protection, and to report all forms of abuse and exploitation without fear of harm. Absent fear of criminalization, sex workers and customers, who know much more about the industry than outsiders, will be more willing and able to identify trafficking victims, provide them with information and resources, and report instances of exploitation and abuse.

Criminalization leaves those in the sex trades, both consensual sex workers as well as victims of human trafficking, with extensive criminal records and trauma associated with arrest and incarceration. Due to the common use of background checks, sex work-related arrests and convictions block consensual sex workers and trafficking survivors from a wide variety of employment, volunteering, parenting, licensure, safe housing, higher education, financial aid, immigration relief, and public benefits. The trauma and shame associated with having to reveal and explain their criminal record leaves many people unable to seek other forms of employment, reconnect with family and friends, or to seek support from public agencies. For sex trafficking survivors, it is a constant reminder of the abuse they suffered. Foreign nationals can be deported for such convictions, which dissuades immigrants from seeking protection from law enforcement or support from service providers. Full decriminalization would allow community agencies to show trafficking survivors and sex workers that they are welcome and supported by society, reducing barriers to exiting sex work should they choose, and making sex workers less vulnerable to trafficking and exploitation.

Full decriminalization also allows sex workers to engage in harm reduction strategies because it makes sex work less hidden. Sex workers have developed critical strategies to reduce their exposure to violence, including bad date lists, screening of potential clients, working in teams, and negotiating terms with customers. Sex workers need time and space, free from the threat of criminalization, to engage in these harm reduction strategies. When we refuse to protect workers, they are more likely to face abuse and exploitation in any workplace, regardless of the industry. Therefore, when either sex workers or customers fear criminalization, sex workers' ability to engage in harm reduction strategies is diminished or even criminalized.

Full decriminalization reduces systemic racism and other forms of discrimination, including xenophobia, homophobia, transphobia, and sexism by allowing government to shift resources and support to addressing the needs of trafficking survivors and sex workers alike. Resources are needed to support communities with medical and mental health care, housing, food, legal representation, education, and employment training. Investing in communities, instead of funding law enforcement and court services, has a more direct, immediate, and long-lasting impact on protecting marginalized communities, including those impacted by human trafficking.

As a human rights-based organization committed to anti-racism, FNUSA believes that full decriminalization is the approach that best supports the agency and humanity of all people while working to dismantle systemic oppression and reduce harm. The current policies are contributing to racist and gender-based violence, the overcriminalization of people of color, and generational poverty. Decriminalization will begin to break these cycles of harm and open new pathways for safety and security.