

# UN HUMAN RIGHTS COMMITTEE QUESTIONS U.S.'S CRIMINALIZATION OF SEX WORKERS AS METHOD TO FIGHT TRAFFICKING

The Best Practices Policy Project (BPPP)

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Yesterday the United Nations Human Rights Committee released its report on U.S. compliance with its obligations under the International Covenant on Civil and Political Rights (ICCPR). Advocates for sex worker rights from BPPP and SWOP-Phoenix were present during the Committee's review of the U.S. government, and filed a shadow report with the Committee on rights abuses against people involved in commercial sex. The Committee is comprised of eighteen independent human rights experts who monitor states' compliance with the ICCPR. The United States ratified the ICCPR in 1992.

The "Concluding Observations" from the Committee included important points on racial profiling, police abuse, and immigrants' rights. The Committee also called on the U.S. to re-align its anti-human trafficking efforts with human rights norms, which reject criminalizing people who are trafficked. Importantly, the Committee's report placed the problem of forced labor within a larger framework of economics and immigration policies, and noted its concern "about the insufficient identification and investigation of cases of trafficking for labor purposes."

Earlier in March, in Geneva, Human Rights Committee members questioned the U.S. Justice Department's position that criminalizing sex workers (by calling for jail time for sex workers) is a sound way to combat human trafficking, noting the harm criminalization causes. During the hearing, Roy L. Austin, Jr., Deputy Assistant Attorney General with the Justice Department's Civil Rights Division made clear that criminalization of sex workers is part of the administration's approach to trafficking. Addressing advocates' questions on the issue, Mr. Austin stated, "This issue is incredibly challenging, because to get those who exploit women, the only tool is to get those women to testify [by arresting them]. [We] sees those women as victims."

Human Rights Committee Chair Sir Nigel Rodley specifically asked how the government could expect people victimized and targeted by police and prosecutors to help provide evidence on traffickers. "[Mr. Austin] talked about the policy being victim-centered and in relation to sex trade workers, clearly the victims are the sex trade workers. If as I understood the policy is to prosecute them for doing something illegal, and I hope I've understood wrongly, then isn't that going to make it particularly difficult to get the necessary evidence in order to reach effective prosecutions of traffickers, not to mention the double victimization?" he asked.

Advocates from SWOP-Phoenix and BPPP educated Committee members prior to the hearing about ways that U.S. policing practices and anti-trafficking initiatives violate the civil and human rights of arrestees. Specifically, advocates described how Project ROSE, a Phoenix-based ostensible anti-trafficking initiative actually results in mass arrest and imprisonment of people police suspect to be doing sex work, and violates the due process rights of arrestees in the process.

Advocates noted how criminalization harms sex workers, people profiled as sex workers, and people who are trafficked. They also spoke about how there is forced labor in an array of industries, including farm work, domestic work and factory work, but there is no other arena aside from sex work where the approach is to criminalize people who may be trafficked in order to prosecute human traffickers.

During a civil society briefing with the U.S. government delegation attending the review in Geneva, advocates pointed out to the Justice Department official that places like Phoenix, AZ impose mandatory minimum sentences for criminal convictions for sex work, meaning arrestees are imprisoned in Arizona's notorious detention facilities. In 2009, Arizona's Department of Corrections killed Marcia Powell, who was sentenced to a 27-month prison term for sex work, by confining her in a metal cage in the desert with no water. As in some other states, escalating penalties in Arizona for additional sex work convictions eventually lead to an automatic felony, depriving arrestees of voting rights and other civil and human rights.

In a statement before the Human Rights Committee, SWOP-Phoenix member Jaclyn Moskal Dairman asked that the Committee, "call on the US to ensure that sex workers and people profiled as such are afforded their constitutional rights when arrested under ostensible 'anti-trafficking' initiatives, and call on the government to monitor anti-trafficking funds to ensure they are not being used to violate civil rights."