

Using Human Rights to Hold the US Accountable for its Anti-Sex Trafficking Agenda: The Universal Periodic Review and new directions for US policy

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Abstract

Since the passing of the *Trafficking Victims Protection Act of 2000*, anti-trafficking efforts have grown in funding, political strength, and popular-culture appeal in the United States and globally. Particularly influential in shaping anti-trafficking policy in the United States are anti-prostitution advocates who are primarily concerned with rehabilitating sex workers and eradicating sexual commerce. Simultaneous to the development of prohibitionist anti-trafficking and anti-prostitution efforts in the US, movements for sex worker rights

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have also grown in strength and visibility, influencing a variety of cultural, academic, and public health arenas. While sex worker activists have widened the dialogue around sex workers' rights, their perspectives have not until recently been acknowledged by US policy makers. In this article, we first trace the recent social histories of both the new prohibitionist and the sex worker rights movements in the United States. Next, we describe the unprecedented collaborative activist process by which a human rights agenda for US-based sex workers was introduced and approved at the United Nations Human Rights Council through the Universal Periodic Review (UPR) process. We follow with an analysis of how the UPR process highlights the ongoing importance of the global human rights community for bringing a diversity of marginalised voices—including those of sex workers—to the attention of US policy makers. We conclude with an assessment of the unique policy reform opportunities and challenges faced by sex worker and human rights activists as a result of this historic moment.

Key Words: human rights, sex work, United Nations, Universal Periodic Review, United States, trafficking.

It is critical that the government work to systematically involve sex workers in policy decisions that affect them. Specifically...eliminate federal policies that conflate sex work with human trafficking, investigate and prevent human rights abuses perpetrated by state agents against sex workers, and examine the impact of criminalisation on our communities.

Darby Hickey, activist for sex worker
and transgender rights¹

Racing to the United Nations

At 8 am on 18 March 2011, Darby Hickey² was sprinting through the gates of the Palais des Nations in Geneva, Switzerland. She had been

¹ Quote from Darby Hickey's speech to the UN Human Rights Council, 18 March 2011.

² Darby Hickey is a member of the Best Practices Policy Project, <http://www.bestpracticespolicy.org>.

nominated by a broad coalition of activists³ to represent the face and voice of the US sex workers' rights movement. Her mission was to secure one of ten available civil society speaking slots at the UN later that day.⁴ The event would mark the conclusion of the US's first Universal Periodic Review (UPR) at the United Nations Human Rights Council, where the US received 228 recommendations from its global peers for improving its human rights record. These recommendations touched on a range of issues including the death penalty, racial profiling, the rights of indigenous peoples, immigration policy, and gay, lesbian, bisexual, transgender (GLBT) rights.⁵ One of these recommendations (#86) was made by member state Uruguay, urging the US to: 'ensure access to public services paying attention to the special vulnerability of [sex] workers to violence and human rights abuses'.⁶

With the help of Sandeep Prasad, a Canadian human rights adviser with the international network the Sexual Rights Initiative (SRI), Hickey was able to secure the tenth and final speaker's seat.⁷ Hickey and her colleagues knew that during the UPR meeting later that afternoon, the US would make official its new position that: 'No one should face violence or discrimination in access to public services based on sexual orientation or their status as a person in prostitution.' Thus, just hours after her dramatic race to the Palais des Nations, Hickey was addressing the United Nations Human Rights Council. In her prepared

³ This broad coalition (which included the four authors of this article) took on the name of "Human Rights for All" for the purpose of responding to the Universal Periodic Review process, <http://www.humanrightsforall.info>.

⁴ Speakers in this forum must be affiliated with a UN accredited NGO. Hickey was invited by the Sexual Rights Initiative and member group, Action Canada for Population and Development.

⁵ Human Rights Council, Working Group on the Universal Periodic Review, Ninth session, *Draft report of the Working Group on the Universal Periodic Review: United States of America, A/HRC/WG.6/9/L.9*, HRC, Geneva, 1–12 November 2010.

⁶ The full recommendation reads: 'Undertake awareness-raising campaigns for combating stereotypes and violence against gays, lesbians, bisexuals and [transgender people], and ensure access to public services paying attention to the special vulnerability of [sex] workers to violence and human rights abuses.' The translation of Uruguay's recommendation uses the terms "transsexuals" and "sexual workers". In our advocacy response, we inserted the terms "transgender people" and "sex workers" which more accurately reflect terms used in the US.

⁷ The process of winning one of ten opportunities set aside for non-governmental organisations (NGOs) to respond to the UPR of the United States involved a literal race against scores of other hopeful participants. As an official NGO delegate with a permanent pass to the UN, Prasad was able to forgo slow security screenings. This pass, along with a borrowed bicycle, enabled Prasad to secure the tenth available seat, which he then gave to Hickey.

remarks, Hickey congratulated the US on its decision and urged the US to ‘involve sex workers in policy decisions that affect them’.⁸

The day of Darby Hickey’s speech and the US’s unprecedented commitment to uphold the human rights of all sex workers was one of celebration for sex worker activists and allies in the United States, as well as for global advocates of sexual health, justice, and human rights. Yet, because the UPR does not yet include standards of accountability for policy change, as of this writing the victory remains largely symbolic. Furthermore, while the current Obama administration has signalled a potential turn away from sensationalistic Bush-era rhetoric around “sexual slavery”—turning instead towards issues of labour and human rights—current governing institutions have retained their premise that all forms of sexual labour should be criminalised. This article evaluates the political-cultural context of the US’s first Universal Periodic Review, describes how sex worker activists and allies quickly coalesced around the UPR, and assesses the current trafficking and sex work policy reform opportunities and challenges facing sex worker, labour, and human rights activists.

Politicising Trafficking; Demonising Sex Work

Eight years prior to Hickey’s address to the UN, President George W. Bush also spoke to a UN audience about sex work issues. But in stark contrast to Hickey’s framing of the needs of sex workers within social justice and human rights principles, Bush deployed dichotomous images of good and evil, referring to “sex trafficking” (and, indeed all sexual commerce) as a ‘special evil’.⁹ This designation of sex work and prostitution as evil has deep historical roots in the US and (as discussed later), opened the way for anti-prostitution groups to equate

⁸ Many of Hickey’s US colleagues watched her presentation live via webcast. Archived video of Darby Hickey’s speech, as well as that of Harold Koh and others available at [http://www.un.org/webcast/unhrc/archive.asp?go=110318#pm2_\(UN Human Rights Council, Sixteenth session, at the Palais des Nations in Geneva, Switzerland. 36th Plenary Meeting, Archived video, Friday 18 March 2011.\)](http://www.un.org/webcast/unhrc/archive.asp?go=110318#pm2_(UN%20Human%20Rights%20Council,%20Sixteenth%20session,%20at%20the%20Palais%20des%20Nations%20in%20Geneva,%20Switzerland.%2036th%20Plenary%20Meeting,%20Archived%20video,%20Friday%2018%20March%202011.))

⁹ ‘There’s a special evil in the abuse and exploitation of the most innocent and vulnerable. The victims of [the] sex trade see little of life before they see the very worst of life, an underground of brutality and lonely fear. Those who create these victims and profit from their suffering must be severely punished. Those who patronize this industry debase themselves and deepen the misery of others.’ George W. Bush addressing the UN General Assembly on trafficking, 23 September 2003.

prostitution and sex work with trafficking.¹⁰ Bush's speech was lauded by many religious and social conservatives, including anti-prostitution feminists who shared his distaste for sex work and other forms of sexual commerce.¹¹ As detailed below, Bush's commitment to ending "sex trafficking" created new opportunities for the US federal government to criminalise prostitution, which previously had primarily been policed at the state and local level. This approach also contributed to the process by which many US policy makers came to conflate prostitution with trafficking, a misconception that has had significant effects globally.

Developing the UN Protocol

It is clear that anti-prostitution activists (who in recent years have re-positioned themselves as "new abolitionists"¹²) have dominated the anti-trafficking discourse in the United States in the past decade. However, contemporary concern about trafficking in persons at the level of the UN has not been influenced by anti-prostitution activists to the same extent. For example, concerns about human trafficking voiced at the UN since the 1990s were propelled at least in part by human rights-based alarm over egregious forms of global labour exploitation.¹³ Additionally, early discussions at the UN were informed

¹⁰ See: J Chuang, 'Rescuing Trafficking from Ideological Capture: Prostitution reform and anti-trafficking law and policy' *University of Pennsylvania Law Review*, vol. 158, no. 1655, 2010, pp. 1655–1728; R Weitzer, 'The Social Construction of Sex Trafficking: Ideology and institutionalization of a moral crusade' *Politics & Society*, vol. 35, no. 3, 2007, pp. 447–475.

¹¹ According to feminist-identified anti-trafficking activist Donna Hughes: 'by supporting the abolitionist work against the global sex trade, he (Bush) has done more for women and girls than any one other president I can think of'. K Lopez, 'The New Abolitionist Movement: Donna Hughes on fighting sex trafficking', *National Review Online*, 26 January 2006, retrieved September 2011, <http://old.nationalreview.com/interrogatory/hughes200601260824.asp>.

¹² This reframing of prostitution can be located within a long genealogy of anti-sex work strategies. See: K Lerum, '12-Step Feminism Makes Sex Workers Sick: How the state and the Recovery Movement turn radical women into "useless citizens"' *Sexuality & Culture*, vol. 2, 1998, pp. 7–36.

¹³ However, as Ann Gallagher - who in 1998 and 1999 acted as the representative to Mary Robinson, the then UN High Commissioner for Human Rights for a series of intergovernmental "Vienna Process" meetings on trafficking - explains: "...the end result (of the "Vienna Process") confirmed the harsh truth that these negotiations had never really been about human rights. Any victories on our side were both hard won and incomplete" (p. 791). See: A Gallagher, 'Human Rights and Human Trafficking: Quagmire or firm ground? A response to James Hathaway' *Virginia Journal of International Law*, vol. 49, no. 4, 2009, pp. 789–848.

by poorly documented fears about the role of organised crime in human trafficking.¹⁴ Researchers have now clarified that a deeper set of structural issues caused by powerful institutions and transnational corporate interests were in fact in play, including the devastating impact of global economic restructuring policies connected (ironically) to the UN's affiliated agencies – the World Bank, the International Monetary Fund (IMF), and the World Trade Organization.¹⁵

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the UN Trafficking Protocol) (2000) created an understanding of trafficking in persons as a set of human rights violations applicable to any labour sector. This Protocol also supersedes earlier international documents such as the 1949 *Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* that focused on the criminalisation of prostitution.¹⁶ However, the influence of anti-prostitution advocates who lobbied to narrow the focus of the Protocol to trafficking into the sex sector is evident in the document's specific reference to the 'exploitation of the prostitution of others or other forms of sexual exploitation'. Subsequent implementation by States Parties has, at times, included anti-prostitution measures even though the UN Interpretive Note to the Protocol itself indicates that the Protocol is neutral on the issue of prostitution. The following section describes

¹⁴ Segrave, Milivojevic, and Pickering critique the criminal justice focus of global anti-sex-trafficking policies, which frame the issue in terms of crime as opposed to labour and human rights. Furthermore, they critically address the notion that large-scale "organised crime" is responsible for sex trafficking (as evidence suggests, that is more likely to be "crime that is organised" rather than "organised crime"). See: M Segrave, S Milivojevic, et al., *Sex Trafficking: International context and response*, Willan Publishing, Devon, UK, 2009, pp. 9–10.

¹⁵ As many labour scholars and economists have noted, labour exploitation and the development of "sweat shops" is often rooted in "supply side" economic and structural factors such as globalised markets and Structural Adjustment Programmes (SAPs). The conditions that came with the IMF and World Bank loans meant that nations were forced to retract spending in numerous sectors and local economies, and this, coupled with incentives for multinational corporations to invest outside of their borders, meant that poverty increased and an increasing number of people found themselves faced with exploitative working conditions. See: J Stiglitz, *Globalization and its Discontents*, W.W. Norton, New York, 2002; S Sassen, 'Global Cities and Survival Circuits' in J Radway (ed.), *American Studies: An anthology*, Wiley-Blackwell, West Sussex, 2009.

¹⁶ A Jordan, *UN Trafficking Protocol: An imperfect approach*, Program on Human Trafficking and Forced Labor, Center for Human Rights & Humanitarian Law, 2010, retrieved September 2011, <http://rightswork.org/wp-content/uploads/2011/09/Issue-Paper-1.pdf>.

how one UN member state, the United States of America, came to see prostitution as an activity that is intrinsically inseparable from human trafficking.

The US legislative response to trafficking

The *Trafficking Victims Protection Act of 2000* (the TVPA) and subsequent reauthorisation acts (TVPRA) are a central part of the US's federal response to trafficking both within the country and through international mechanisms created by this legislation. The TVPA emerged from two separate and oppositional strands of proposed legislation and advocacy. One series of bills—which considered trafficking as an issue affecting any labour sector—had its genesis in the work of liberal Senator Paul Wellstone (D-MN) and the efforts of human rights advocates concerned primarily with women's rights. Another series of bills—which focused on “sexual trafficking” and prostitution—began as a result of the efforts of conservative Representative Chris Smith (R-NJ), who had worked with anti-prostitution constituencies to develop the “Freedom From Sexual Trafficking Act” introduced on March 25, 1999. Under pressure to adopt a compromise, a definition inclusive of men, women, and children into both sex and non-sex sectors was accepted and incorporated into the TVPA.¹⁷ What is striking here is that although some inspiration for the TVPA came from human rights advocates' concerns about labour abuse, both efforts lacked recognition of sex worker rights perspectives.

After more than a year of intensive debate about the exact nature of the problem concerning trafficking, the final compromise legislation contained different definitions for the criminal law and for other non-criminal areas of law, such as immigration, social services, and foreign aid. The non-criminal law portion of the law defines ‘severe forms of trafficking’ as either: 1) ‘sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act has not attained 18 years of age’, or 2) ‘the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery’.¹⁸

¹⁷ Chuang, p. 1678.

¹⁸ U.S. Department of State, *2009 Trafficking in Persons Report*, U.S. DOS, 2009, pp. 6–7, retrieved September 2011, <http://www.state.gov/documents/organization/123357.pdf>.

By separating sex trafficking from other forms of labour trafficking, the TVPA reinforced the traditional—and distinctly anti-feminist—notion that actions involving “sex” and “intimacy” cannot be considered “real work”.¹⁹ Furthermore, the decade following the passing of the TVPA in 2000 has been marked by intense political advocacy from well-funded conservative groups who have incrementally defined trafficking as prostitution.²⁰ By 2005, the official US position had locked in on this conflation, stating that ‘prostitution is inherently harmful for men, women, and children, and that it contributes to the phenomenon of trafficking in persons’.²¹ Since the turn of the 21st century, prohibitionist efforts have continued to grow in funding, political strength, and popular-culture appeal in the United States and globally. Because others have written extensively about this movement and its history,²² we turn next to examining a few significant impacts.

A Trail of Damaging Policies

Since the early 2000s, anti-prostitution policies at the federal level have translated into increasingly aggressive state and local-level policing of sex workers and their customers. US jurisdictional law allows the federal and state governments to adopt trafficking laws while policies and policing around prostitution are controlled by state and local laws, and by federal law when it crosses borders. The conflation

¹⁹ While feminists vary on their perspectives on sex work, most feminists agree that “women’s” labour is traditionally intimate (and hence denigrated) labour. For a critical overview of the politics of intimate labour including sex work, see: E Boris, R S Parrenas (eds.), *Intimate Labors: Cultures, technologies, and the politics of care*, Stanford University Press, Stanford, CA, 2010.

²⁰ P Saunders, ‘Prohibiting Sex Work Projects, Restricting Women’s Rights: The international impact of the 2003 U.S. Global AIDS Act’ *Health and Human Rights*, vol. 7, no. 2, 2004, pp. 179–192.

²¹ J Huckerby, ‘United States of America’ in Global Alliance Against Traffic in Women (ed.) *Collateral Damage: The impact of anti-trafficking measures on human rights around the world*, GAATW, 2007, p. 231, retrieved January 2012, <http://www.gaatw.org>.

²² See, for example: L M Augustin, *Sex at the Margins: Migration, labour markets and the rescue industry*, Zed Books, London, 2007; E Bernstein, ‘The Sexual Politics of the “New Abolitionism”’ *Differences: Journal of feminist cultural studies*, vol. 18, no. 3, 2007, pp. 128–151.; W Chapkis, ‘Soft Glove, Punishing Fist: The Trafficking Victims Protection Act’ in E Bernstein and L Schaffner (eds.), *Regulating Sex*, Routledge, New York, 2005.; Chuang, pp. 1655–1728.; G Soderlund, ‘Running from the Rescuers: New U.S. crusades against sex trafficking and the rhetoric of abolition’ *National Women’s Studies Association Journal*, vol. 17, no. 3, 2005, pp. 54–87; Weitzer, p. 447.

of trafficking and prostitution policy, however, has allowed for federal dollars to be used locally for anti-prostitution purposes. Anti-trafficking raids, such as Operation Cross Country held annually since 2006, have resulted in the arrest of many sex workers nationwide using federal anti-trafficking dollars.²³ Additionally, conservative policy makers and anti-prostitution lobbyists claim that arresting clients helps victims of trafficking by “ending the demand” for sex work. Funding from United States federal law against trafficking (through reauthorisations of the TVPA) has enabled state and local law enforcement to aggressively ‘investigate and prosecute buyers of commercial sex’.²⁴ Similarly, these same funding sources have encouraged States to introduce new “domestic anti-trafficking laws” that frame all prostitution as a form of trafficking, and include higher penalties for buying sex from a trafficked person, even in the absence of evidence that the person had been trafficked. Such approaches have done nothing to reduce and, in many cases, have increased the human rights violations of sex workers.²⁵

Policies that increase the already intense criminalisation of sex workers disproportionately scrutinise and punish the most disenfranchised, increase the economic and social marginalisation of both the providers and the purchasers of commercial sex,²⁶ and create new ways to penalise men, women, and transgender people of colour and immigrants.²⁷ Sex workers of colour are often singled out by law enforcement, thus

²³ See, for example: S Murphy, ‘Five Arrested in US Sting at Marriott’ *The Boston Globe Online*, 21 February 2009, retrieved September 2011, http://www.boston.com/news/local/massachusetts/articles/2009/02/21/5_arrested_in_us_sting_at_marriott/.

²⁴ *Trafficking Victims Protection Reauthorization Act of 2005*, section 204.

²⁵ See: Sex Workers Project, *Use of Raids to Fight Trafficking in Persons*, SWP, 2009, retrieved September 2011, http://www.urbanjustice.org/pdf/publications/Kicking_Down_The_Door_Exec_Sum.pdf. Based on interviews with self-identified trafficking victims, this report recommends a rights-based (rather than a law-enforcement based) approach to identifying and assisting trafficking victims.

²⁶ See, for example, the sidebar ‘Eliminating the Demand for Victims of Sexual Exploitation’ in U.S. Department of State, *2005 Trafficking in Persons Report*, U.S. DOS, 2005, retrieved September 2011, <http://www.state.gov/documents/organization/47255.pdf>; M Shively, K McLaughlin, et al., *Developing a National Action Plan for Eliminating Sex Trafficking*, ABT Associates, 2005, retrieved September 2011, http://web.multco.us/sites/default/files/documents/developing_a_final_action_plan_to_eliminate_sex_trafficking.pdf.

²⁷ See: Best Practices Policy Project, Desiree Alliance, Sexual Rights Initiative, *Report on the United States of America: 9th Round of the Universal Periodic Review*, BPPP, 2010, retrieved September 2011, http://www.bestpracticespolicy.org/downloads/FinalUPRBPPP_Formatted.pdf.

violating the US Constitution, international standards against discrimination and treaties such as the Committee on the Elimination of Racial Discrimination and the International Covenant on Civil and Political Rights.²⁸ Furthermore, economic marginalisation due to the deep impact of racism in the United States means that people of colour make up the majority of sex workers in public spaces, and are relentlessly targeted by the police in their efforts to clear the streets.²⁹ Arrest and subsequent conviction for prostitution-related offences intensifies the homelessness or housing precariousness experienced by people from low-income communities because people with criminal records are barred from accessing, or may lose, their public housing.³⁰ Although health and human services scholars support pragmatic, evidence-based approaches, such as harm reduction services for sex workers³¹ and programmes that attend to the needs of migrant labourers,³² public and political discourse has been dominated by high-profile trafficking hype, such as the wild, unfounded claims that the World Cup and Superbowl are responsible for an increase in child sex slavery.³³

Internationally, the United States has become the world's largest exporter of detrimental sex work policies, which have been shown to be both damaging to sex workers' health and human rights and inefficient in resolving labour abuses. Foremost is the anti-prostitution loyalty oath or "anti-prostitution pledge", a requirement that

²⁸ Andrea Ritchie, former Director of the Sex Workers Project, personal communication, 22 December 2009.

²⁹ See: A L McArdle, *Zero Tolerance: Quality of life and the new police brutality in New York City*, SSRN Elibrary, 2001; L Sausa, J Keatley, et al, 'Perceived Risks and Benefits of Sex Work among Transgender Women of Color in San Francisco' *Archives of Sexual Behavior*, vol. 36, no. 6, pp. 768–777.

³⁰ Best Practices Policy Project, Desiree Alliance, Sexual Rights Initiative, p. 1.

³¹ Epidemiologist and scholar Elizabeth Pisani has written extensively on how evidence-based harm-reduction interventions are stymied by politics and ideology. See: E Pisani, *The Wisdom of Whores: Bureaucrats, brothels, and the business of AIDS*, W. W. Norton & Company, Inc, New York, 2008.

³² The National Asian Pacific American Women's Forum (NAPAWF) is a leader in the US in calling for comprehensive immigration reform as a precondition for addressing human trafficking. See: National Asian Pacific American Women's Forum, *The Nexus Between Human Trafficking and Immigration*, NAPAWF, 2007, retrieved September 2011, http://napawf.org/wp-content/uploads/2009/working/pdfs/Trafficking_and_Immigration.pdf.

³³ A Jordan, 'Fact or Fiction? What do we really know about human trafficking?' Issue paper 3, Center for Human Rights & Humanitarian Law, American University, 2011, retrieved September 2011, <http://rightswork.org/wp-content/uploads/2011/09/Issue-Paper-3.pdf>.

organisations seeking funding for international HIV/AIDS work from the President's Emergency Plan for AIDS Relief (PEPFAR) and for anti-trafficking programme funding from the US Agency for International Development (USAID), adopt a policy against sex work. This policy has led to defunding of evidence-based services and a widespread chilling effect amongst service providers in terms of working with sex workers.³⁴ Additionally, the tier ranking system associated with the Department of State's yearly Trafficking In Persons (TIP) report—where countries are graded according to how aggressively they are deemed to be in tackling trafficking—has sparked misguided crackdowns on sex workers in countries seeking to secure a better TIP rank.³⁵ A related concern around the organisation of the TIP system is its emphasis on criminal justice outcomes (e.g. higher arrest rates) rather than human rights outcomes (e.g. increasing access to safe living and working conditions) as a measure of success.³⁶

The Sex Workers' Rights Movement

Simultaneous with the development of prohibitionist anti-trafficking and anti-prostitution efforts in the US, movements for sex worker rights have also grown in strength and visibility, impacting a variety of cultural, academic, and public health arenas. Organising for the rights of sex workers—a term attributed to San Francisco activist Carol Leigh³⁷—can be traced in the US since the early 1970s to organisations such as COYOTE (Call Off Your Old Tired Ethics), the North American Task Force on Prostitution, Prostitutes of New York (PONY) and the San Francisco-based Prostitution Task Force. A central feature of these collective movements was to promote wider societal recognition of

³⁴ A Crago, *Our Lives Matter: Sex workers unite for health and rights*, Open Society Institute, 2008, retrieved September 2011, http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/ourlivesmatter_20080724/Our%20Lives%20Matter%20%20Sex%20Workers%20Unite%20for%20Health%20and%20Rights.pdf.

³⁵ South Korea, for example, partly as a response to the Tier 3 placement, passed a new “anti-trafficking” law in 2004 called the Sex Trade Prevention Act. This Act led to the widespread arrest of women who did not want to leave prostitution; over 2000 women sex workers took to the streets of Seoul in protest. See: S Cheng, ‘Korean sex trade “victims” strike for rights.’ *Asia Times*, 2004, retrieved September 2011, <http://www.atimes.com/atimes/Korea/FL22Dg01.html>.

³⁶ See: M Segrave, M Milivojevic, et al., p. 204.

³⁷ C Leigh, *Unrepentant Whore: The collected works of Scarlot Harlot*, Last Gasp, San Francisco, 2003.

prostitution and other forms of sexual commerce as legitimate work. However, by the second part of the 1990s, even though organisations for the rights of sex workers continued to exist, national-level activism had almost vanished.³⁸

The sex worker rights movement was reborn in the 2000s, driven by the increasing repression of sex workers post-9/11 and further fuelled by new efforts to end trafficking as a result of the TVPA and the ongoing “war on drugs”.³⁹ Increases in law enforcement powers in the wake of September 11, 2001 fostered a climate of limited police accountability and brought new waves of systemic police abuse for many sex workers.⁴⁰

In 2003, the Sex Workers Outreach Project USA (SWOP USA), a national campaign style organisation was co-founded by Robyn Few with other activists. Few explains:

We were looking into the future and seeing that a lot more people were going to be arrested and we needed to be prepared for that. The federal government was coming down on us. Prostitution was not even related to federal law but the whole human trafficking approach allowed the federal government to find ways to crack down on prostitution.⁴¹

³⁸ One reason for this was the ongoing impact of HIV/AIDS on sex worker communities. Many sex worker organisers joined gay men in a fight to have HIV/AIDS recognised as a health crisis. Some leaders were lost to the illness and many community representatives were burnt-out by the 1990s by the intensity of these struggles. Interview with Carol Leigh, founder of BAYSWAN, convenor of the Sex Worker Film and Arts Festival and well-known advocate for sex worker rights, by Penelope Saunders, 12 September 2011.

³⁹ Leigh, *op. cit.*; The number of people in state prisons for drug-related activity has increased exponentially over the past twenty years. See: Justice Policy Institute, *Pruning Prisons: How cutting corrections can save money and protect public safety*, JPI, 2009, retrieved February 2012, http://www.justicepolicy.org/images/upload/09_05_REP_PruningPrisons_AC_PS.pdf; ACLU, *Break the Chains*, Brennan Center for Justice, *Caught in the Net: The impact of drug policies on women and families*, ACLU, 2005, retrieved 5 February 2012, http://www.aclu.org/files/images/asset_upload_file431_23513.pdf.

⁴⁰ A Ritchie, J L Mogul, *In the Shadows of the War on Terror: Persistent police brutality and abuse of people of color in the United States*, Report prepared for the United Nations Committee on the Elimination of Racial Discrimination on the occasion of its review of the United States of America’s 2nd and 3rd Periodic Report to the Committee on the Elimination of Racial Discrimination, 2007, p. 33, retrieved February 2012, <http://www2.ohchr.org/english/bodies/cerd/docs/ngos/usa/USHRN15.pdf>.

⁴¹ Interview with Robyn Few, by Penelope Saunders, 9 September 2011.

Other activists who had previously been working individually found ways to network. In the fall of 2004, a conference on prostitution and sex work organised at the University of Toledo, Ohio, resulted in an ad hoc organising meeting for key activists sowing the seeds for the formation of the Desiree Alliance and the Best Practices Policy Project (BPPP). The following year, an international conference, the XXX Forum, organised in Montreal in May 2005 provided another opportunity for capacity and community building. Stacey Swimme, who went on later to co-found the Desiree Alliance (and who met the \$pread magazine⁴² collective and other key US groups in Montreal for the first time), recalls: ‘I was inspired by XXX because it was so clear that every other country was so much more organised than we were in the US. It also affected me to think that I had to go to Canada to meet sex workers from the East Coast.’⁴³

In 2005, advocates from numerous organisations convened to establish the Desiree Alliance to create national spaces for the expression of sex worker rights. The first Desiree Alliance conference, organised around the theme of Re-visioning Prostitution Policy, was held in Las Vegas in July 2006. This conference was the first national convening for sex worker rights in almost ten years. Energised activists returned home to continue their work, challenging issues such as zero tolerance and prostitution free zones (PFZs) policies;⁴⁴ they also began to analyse the impact of anti-trafficking policies and to organise some small-scale responses.⁴⁵

⁴² \$pread Magazine was launched in 2005 by Rachel Aimee, Rebecca Lynn, and Raven Strega. The magazine aimed to illuminate the sex industry and was by and for sex workers. Interview with Rachel Aimee, co-founder of \$pread Magazine, by Penelope Saunders, 12 September 2011.

⁴³ Interview with Stacey Swimme, 8 September 2011.

⁴⁴ See, for example, campaigns against PFZ and related anti-prostitution policies organised by the Alliance for a Safe and Diverse DC beginning in 2005 and resistance against PFZ and “drug-free zones” in Portland in the same period through to 2010. Alliance for a Safe and Diverse DC, *Move Along: Policing sex work in Washington, DC*, Different Avenues, 2008, retrieved September 2011, <http://dctranscoalition.files.wordpress.com/2010/05/movealongreport.pdf>.; E Koyama, *Surviving the Witch-hunt: Battle notes from Portland’s 82 Avenue, 2007–2010*, Confluere Publications, Portland, Oregon, 2010.

⁴⁵ In early 2006, for example, the Desiree Alliance, SWOP USA, Best Practices Policy Project, the Woodhull Freedom Foundation, BAYSWAN and local service providers in the District of Columbia organised to raise awareness of the problematic inclusion of “end demand” programming in the *Trafficking Victims Protection Reauthorization Act*.

Another strand of organising against repression wrought by anti-trafficking approaches and heightened policing emerged from harm reduction organisations, local service providers and communities of colour. Many coming from these sectors did (and do) not embrace the term “sex work” as a way of describing their engagement in sexual commerce.⁴⁶ Some service providing organisations such as the St James Infirmary and Different Avenues were participating in the early formation of groups such as the Desiree Alliance, but many others were formulating their approach to rights within other movements for reproductive justice and against police misconduct.⁴⁷ These groups took leadership in challenging issues that sex worker rights organisers found difficult to negotiate, such as the impact of anti-trafficking policies on marginalised communities of youth.⁴⁸ They also questioned narrow interpretations of decriminalisation and other remedies which were being proposed by some of the newer sex worker activist groups.

Despite growing support and networking across rights-based organisations and between communities of activists, access to mainstream policy makers under the Bush administration was impossible. Andrea Ritchie, attorney at Streetwise and Safe in New York, notes that: ‘People had a siege experience under Bush. Trafficking became a tool for pushing back on a wide range of groups. There was no way that we could engage in direct advocacy in Washington.’ Stacey Swimme concurs with this assessment: ‘What happened with the sex workers was similar to what happened with other social movements under Bush. This was the realisation that under Bush we could not achieve any federal victories. We focused locally instead and what we did locally was community building and alliance building...This period of community and alliance building has really paid off and is part of our success with the UPR.’⁴⁹

⁴⁶ Interview with Andrea Ritchie, Streetwise and Safe, by Penelope Saunders, 14 September 2011.

⁴⁷ Ritchie, *op. cit.*

⁴⁸ INCITE! Women of Color Against Violence, ‘No Simple Solutions: State Violence and the Sex Trades’, 22 April 2011, retrieved September 2011, <http://inciteblog.wordpress.com/2011/04/22/no-simple-solutions-state-violence-and-the-sex-trades/#comments>.

⁴⁹ Swimme, *op. cit.*

The UPR moment

The Universal Periodic Review is a relatively new procedure created by the United Nations Human Rights Council (formerly the Human Rights Commission). The purpose of the UPR is to publicly examine the human rights record of all UN member States. During each four-year cycle, all States will be reviewed. For each member state being reviewed, the Human Rights Council selects three rapporteurs (referred to as the troika) to facilitate the review process. The evidence under review may consist of national reports, information provided by independent human rights experts, treaty bodies and other UN entities, and “shadow reports” from NGOs and other national human rights institutions.⁵⁰

In 2010, the current human rights record of the US was to be reviewed.⁵¹ In February 2010, the Sexual Rights Initiative (SRI), a global coalition of organisations which aims in part to reframe sexual rights at the level of the Human Rights Council,⁵² sent out a call for applications from organisations from countries under review (including the US) to write reports regarding reproductive rights, sexual diversity, sexuality education, and HIV/AIDS. A human rights adviser to the Best Practices Policy Project forwarded this call from SRI to organisations in its US network which are aligned with sexual rights and justice for people in the sex trade. BPPP applied to write a report in partnership with the Desiree Alliance on human rights abuses experienced by sex workers in the United States. The report—developed with extensive consultation across organisations working for the rights and well-being of sex workers, people in the sex trade and related communities—was one of

⁵⁰ United Nations Office of the High Commissioner for Human Rights, *Basic Facts About the UPR*, OHCHR, 2008, retrieved September 2011, <http://www.ohchr.org/en/hrbodies/upr/pages/BasicFacts.aspx>.

⁵¹ Between 2008 and 2011, the Human Rights Council’s Universal Periodic Review hosted its first round of reviews, which consisted of 12 review sessions, each of which focused on 16 UN member States. The US was reviewed during the 9th session (in 2010). The following link lists each member state by their review session: <http://www.ohchr.org/EN/HRBodies/UPR/Documents/uprlist.pdf>. The second round of UPR sessions will commence between 2012–2016. Retrieved January 2012.

⁵² While the SRI helped bring sex work issues to the UN table, this process was also facilitated by more than three decades of activism and scholarship around the concepts of sexual health and rights on a domestic (US) and global scale. See, for example: A Miller, C Vance, ‘Sexuality, Human Rights and Health’ *Health and Human Rights*, vol. 7, no. 2, 2004, pp. 5–15; S Correa, R Petchesky, et al., *Sexuality, Health and Human Rights*, Routledge, New York, 2010.

a handful chosen by the SRI to proceed to developing a full report for submission to the UN Human Rights Council. This report constituted the first national statement of the status of the human rights of sex workers in the United States.⁵³

In November 2010, two members of the BPPP, Penelope Saunders and Darby Hickey, were invited by the SRI to be present in Switzerland during the first UPR meeting for the United States. Saunders and Hickey joined dozens of other US representatives in Geneva to discuss human rights violations in the US with members of the UN Human Rights Council. Many of these members were interested in speaking with Saunders and Hickey, including the delegation of Uruguay, which subsequently proposed recommendation #86.

For the next three and a half months (leading up to early March 2011 when the US would announce its response to the UPR recommendations), sex worker rights advocates in the US pushed themselves beyond what they had previously thought they could achieve. They formed a working group named Human Rights for All (HRFA),⁵⁴ which engaged in a series of coordinated high-leverage organising activities that included: the development of a “call to action” addressed to the US government (signed by more than 150 academics, public health leaders, and supporting organisations including national and international human rights groups); the garnering of support from high-profile leaders in the fields of health, criminology, and women’s rights; the development of a policy brief tailored to the US federal government context, including a refined set of policy-amenable recommendations; and an educational

⁵³ Best Practices Policy Project, Desiree Alliance, Sexual Rights Initiative, p. 1.

⁵⁴ This work required substantial time, effort, creative vision, patience, and collaboration across many state lines and time zones. Core members of Human Rights for All, including the authors of this article, laboured at times around the clock under conditions of severe time limitation. The learning curve for most of us was very steep, especially regarding writing for and speaking to policy makers, but also in learning how to work together across diverse personalities and positions (made more challenging by the need to do so via email and phone rather than face-to-face). In order to “win” with the UPR, we knew we needed to work quickly and efficiently while forging alliances with people in positions of institutional power. But in order to “win” in the longer run as a movement, we knew we needed to place the voices and needs of a diversity of sex workers at the center of the effort and to honour principles of transparency and consensus building. While the experience was invaluable for learning how to create change by reaching for allies across diverse sectors of society, our process was by no means perfect. Our reflections on how to best accomplish this balance of short-term/longer-term goals are ongoing.

campaign to inform congressional leaders about the critical issues sex workers face and offer some potential viable solutions.⁵⁵

Reframing sex work for federal officials

The process of trying to convince State Department officials to understand sex work as a domestic human rights issue, and not simply an issue of human trafficking and crime, posed a number of challenges. We describe three here:

First, because of the persistent misperception in the US that most or all sex workers are victims of “trafficking”, advocates needed to clearly define the difference between human trafficking and sex work to policy makers. By doing so, they could then illuminate for officials why it is a problem that US policies against sex work and human trafficking mistakenly stem from the same logic (unlike, for example, policies around trafficked farm labour vs. voluntary farm labour).

Second, federal policy reform around reducing violence and human rights abuses against sex workers is particularly difficult to institutionalise due to the US governance structure in which power is divided and shared between the central (federal) and state or local governments. In other words, even if the State Department changed its understanding of sex work and human trafficking, this would not automatically translate into legal changes at the state or local level.⁵⁶

⁵⁵ K Lerum, P Saunders, et al., *Reducing Violence against Sex Workers: What are the policy options?*, Human Rights for All, 2011, retrieved September 2011, http://www.humanrightsforall.info/uploads/Policy_Brief_FINAL.pdf.; Human Rights for All, *Call to Action Letter to Harold Koh, Michael Posner, David Sullivan and David Busby*, Human Rights for All, 2011, retrieved September 2011, http://www.humanrightsforall.info/uploads/Sign_on_Letter_031311_10pm-1-2.pdf.

⁵⁶ As outlined in the Constitution, the US government is based on the principle of federalism, in which power is divided and shared between the central (federal) and state or local governments. In the past, the federal government has demurred when confronted with the evidence of gross human rights violations against sex workers, citing state authority over policing and local law enforcement issues. Criminal prohibition of sex for money and surrounding activities exists in most States (with the exception of some counties in the state of Nevada). Some forms of sex work, such as exotic dancing, may not be prohibited by state legislation but they are always regulated by state and municipal policies. Sex work that occurs in public spaces is also often policed under legislation prohibiting loitering, public nuisance, trespassing or “failure to obey” a police officer’s directive to move along. Despite politicians’

Third, while police violence and criminalisation were (and are) the most pressing human rights concerns for sex worker rights advocates in the US, advocates realised that they could not address sex workers' rights with US lawmakers without also engaging in dialogue around current anti-trafficking measures. Therefore, in developing messages that would resonate in meetings with House and Senate representatives and the State Department, advocates needed to underscore the negative impact that trafficking measures have on human rights in the US. For example, they drew attention to the ways that federal anti-trafficking funding streams have *increased* (rather than decreased) law enforcement abuse on sex workers at city and state levels.⁵⁷ At the same time, due to federal funding restrictions for such research in the US, building this case with systematic research evidence (as opposed to anecdotal stories) is an ongoing challenge.⁵⁸

Connecting with federal officials

In February 2011, advocates met with Senate and House representatives and their staff to raise awareness about UPR recommendation #86, and the need for the US to accept the recommendation in its report to the UN.⁵⁹ Advocates also managed to meet with State Department representatives including Harold Koh, senior legal adviser to Secretary of State Hillary Clinton and head of the US delegation to the UN Human Rights Commission for the UPR. While these meetings took considerable effort for advocates to arrange, they were facilitated by the mandate provided by the UPR to engage in open dialogue with members of civil society. State Department officials

preference for local control, policing and law enforcement has and can be affected by federal regulations. For example, state and local police departments have been federally ordered to alter their hiring and training policies to ensure that women and ethnic/racial minorities are given access to jobs in these agencies. Federal regulations can also affect state government control of policing through fiscal federalism, or grants-in-aid programmes.

⁵⁷ See: Sex Workers Project, *Use of Raids to Fight Trafficking in Persons*, SWP, 2009, retrieved September 2011, http://www.urbanjustice.org/pdf/publications/Kicking_Down_The_Door_Exec_Sum.pdf. Based on interviews with self-identified trafficking victims, this report recommends a rights-based (rather than a law-enforcement based) approach to identifying and assisting trafficking victims.

⁵⁸ See: Weitzer, p. 447.

⁵⁹ Although the UPR is a matter of the State Department, and not an issue to be voted on by Senate and House representatives, advocates felt that the UPR process was an important educational opportunity for federal lawmakers who vote on domestic legislation, such as the TVPA.

took this UN mandate seriously, and repeatedly articulated to human rights activists their intent to demonstrate to their global peers how the US is a model for how to best engage with civil society during the UPR process.

In their messages to representatives of the House and Senate and State Department, advocates stressed that policies must be accountable to reliable evidence and assessment. To address this need, they urged representatives to build ‘capacity for human rights through research and dialogue’.⁶⁰ In addition, advocates urged the US government and Congress to ‘[m]odify or eliminate existing federal policies that conflate sex work with human trafficking and prevent sex workers from accessing services such as healthcare, HIV prevention and support’. Advocates also recommended the revocation of the anti-prostitution loyalty oath (instructing the Department of Justice to cease its appeal of litigation challenging the oath), and proposed that sex workers should be included in the US National HIV/AIDS Strategy regarding prevention and harm reduction efforts.⁶¹

For the first time since the rebirth of the sex worker rights movement in the 2000s, advocates carrying clear and well-developed messages had gained access to senior policy makers and elected federal officials. During these meetings many policy makers initially assumed that advocates had come to raise concern over “sex trafficking”; some were initially unable to grasp the idea that non-trafficking related human rights abuses were faced by the constituents represented by Human Rights for All.⁶² These meetings illustrated the extent to which “sex trafficking” had come to be understood by policy makers in

⁶⁰ To date, the US still lacks adequate and rigorous assessment of the human consequences of its own anti-trafficking policies both on a domestic and a global level. See Global Alliance Against Traffic in Women, *Collateral Damage: The impact of anti-trafficking measures on human rights around the world*, GAATW, 2007, pp. 18-21, retrieved September 2011, http://www.gaatw.org/Collateral%20Damage_Final/singlefile_CollateralDamagefinal.pdf. Sweden—another global leader in aggressive anti-prostitution policies—has also been critiqued for its dearth of rigorous assessment of its policy impact. See: A. Jordan, *The Swedish Law to Criminalize Clients: A failed experiment in Social Engineering*. Center for Human Rights & Humanitarian Law, April 2012, retrieved June 2012, <http://rightswork.org/wp-content/uploads/2012/04/Issue-Paper-4.pdf>

⁶¹ For the full list of recommendations, see: Lerum, et al. (2011), *op. cit.*

⁶² D Barlin, Human Rights for All, communication by email, September 14, 2011.

Washington, D.C. as the central issue encompassing all human rights questions in regards to prostitution. However, these meetings also demonstrated the intellectual openness of some current officials to broaden their understanding of the issues at hand – especially when presented with meticulous evidence and when supported by a broad coalition of respected activists, scholars, and health officials.

As a result of these successful connections across many lines of difference (both within the Human Rights for All coalition and between the HRFA advocates and federal officials), the messages delivered by the activists instigated a series of both personal and political transformations. Most notably, in early March 2011 the US released report to the United Nations in which the government officially accepted recommendation #86, stating: *No one should face violence or discrimination in access to public services based on sexual orientation or their status as a person in prostitution.*⁶³ As we describe next, this remarkable and historic statement by the State Department has opened up a new set of opportunities and challenges for sex worker activists.

Current Opportunities and Challenges

The UPR process highlighted the ongoing importance of the global human rights community for bringing a diversity of marginalised voices—including those of sex workers—to the attention of US policy makers.⁶⁴ It is our contention that the US State Department's acceptance of recommendation #86 is an indication of the ability for organised sex workers and their allies to press for change.⁶⁵ Recommendation

⁶³ U.S. Department of State, *U.S. Response to the UN Human Rights Council Working Group Report*, U.S. DOS, 10 March 2011, retrieved September 2011, <http://www.state.gov/j/drl/upr/157986.htm>.

⁶⁴ While the geopolitical diversity built into the UPR process is crucial for facilitating the raising of new issues, so too can this diversity inhibit the raising of others. For this reason, the work of transnational coalitions, such as the SRI, are critical for the successful framing of marginalised issues at the level of the UN.

⁶⁵ This potential is also borne out by other significant recent victories won by sex workers at state and local levels, including the overturning of the sex offender law in Louisiana. See: J Flaherty, 'Sex offender registration for sex workers ends in Louisiana' Louisiana Justice Institute, 28 June 2011, retrieved September 2011, <http://louisianajusticeinstitute.blogspot.com/2011/06/sex-offender-registration-for-sex.html>.

#86 is itself limited in what it calls for—framing human rights abuses in terms of basic respect under the law and access to social services.⁶⁶ However, a broader human rights strategy around sex work (e.g. one that also includes labour rights, immigrant rights, and sexual rights) has the potential to chip away at the hegemonic understanding of sex workers as people who must be rescued, saved, and/or reviled.

During the eight years of the George W. Bush administration, progressives working on HIV/AIDS treatment and care, reproductive rights and human rights found themselves as outsiders in Washington, D.C.; meanwhile, conservative feminists and the religious right were provided open access to influence policy.⁶⁷ The election of President Obama led to great hope that key policies in these areas would return to being based on scientific evidence, best practices and human rights standards. Obama initially pushed back on some of the most retrogressive sexual and reproductive policies implemented under Bush,⁶⁸ but over time progressives have been disappointed on many issues.

In regards to anti-trafficking policies, the Obama State Department has indicated an openness to policy change but has also left a great deal of the Bush approach intact. The administration has publicly rejected an absolute link between trafficking and sex work, stating that, ‘prostitution by willing adults is not human trafficking regardless of whether it is legalized, decriminalized, or criminalized’.⁶⁹ However in 2010, after a temporary suspension of the US appeal, Obama defended the anti-prostitution loyalty oath by continuing to pursue appeals of an injunction won by US-based international aid organisations preventing the application of policy to their organisations.⁷⁰ Even

⁶⁶ Additionally, when accepting recommendation #86, the US State Department also shied away from the term “sex work” (which would have implied recognition of sex work as work) opting instead for the term “prostitution”.

⁶⁷ Saunders (2004), *op. cit.*

⁶⁸ For example, in early 2009 Obama rescinded the global gag rule on abortion.

⁶⁹ See the sidebar ‘What is not Trafficking in Persons’ in U.S. Department of State, *2010 Trafficking in Persons Report*, U.S. DOS, 2010, retrieved September 2011, <http://www.state.gov/documents/organization/142979.pdf>.

⁷⁰ In mid-2011 a federal appeals court ruled that United States cannot force US-based groups seeking international HIV/AIDS funding to denounce sex work. This decision from the U.S. 2nd Circuit Court in New York upholds a lower court decision in favour of the Alliance for Open Society International (AOSI), Pathfinder International, the Global Health Council and Interaction. See: K Kade, ‘Anti-Prostitution Pledge Ruling Corrects Misguided, Harmful Policy’ Jurist - Hotline, 22 July 2011, retrieved September 2011, <http://jurist.org/hotline/2011/07/kristy-kade-prostitution-pledge.php>.

though these US-based organisations have again prevailed in court, the anti-prostitution loyalty oath continues to remain in effect for the vast majority of organisations seeking PEPFAR funding worldwide under terms almost identical to those imposed under the Bush administration.⁷¹

Despite the mixed bag presented by the Obama approach to anti-trafficking policies, advocates for sex workers' rights were delighted when, some months after the US accepted recommendation 86, US Secretary of State Hillary Clinton used the term "sex worker" during a speech. Commenting on the achievements of international development work for rights at a celebration of LGBT Pride Month co-hosted by the State Department and Gays and Lesbians in Foreign Affairs Agencies, Clinton reported: '[o]ur colleagues are meeting with human rights activists, health authorities, youth activists, sex workers, the full range of people who are involved in and working to protect LGBT people's rights and lives'.⁷² This statement combined with the acceptance of recommendation #86 indicates that central figures in the State Department are, for the first time in more than a decade, prepared to dialogue about the rights of sex workers.⁷³

⁷¹ In 2009, small changes were made to the wording of the policy under the Obama administration which did not substantially change its operation. N Wittlin (nd), 'US Funding for HIV/AIDS', <http://www.sxpolitics.org/?p=3445>. President Obama cannot rescind the anti-prostitution loyalty oath as he rescinded the global gag rule on abortion because the loyalty oath is enshrined in legislation, the 2003 Global AIDS Act. The loyalty oath can only be removed by an act of Congress. See: 'Don't expect a revolution Barack Obama may differ little from George Bush in his approach to Africa' *The Economist*, 12 March 2009, <http://www.economist.com/node/13279006>.

⁷² P Starr, 'Clinton: Meeting With 'Sex Workers' Is 'People-to-People Diplomacy at Its Best' *CNS News*, 28 June 2011, retrieved September 2011, <http://cnsnews.com/news/article/clinton-meeting-sex-workers-people-people-diplomacy-its-best>.

⁷³ Clinton has long avoided any public statement of sex work since she was publicly attacked for being "pro-prostitution" during the development of the UN Trafficking Protocol in 2000 by Concerned Women for America and Republican senator Jesse Helms. At that time, Clinton was co-chair of the President's Interagency Council on Women and the US delegation to the UN Crimes Commission where the Trafficking Protocol was under development. She had been part of efforts to include a definition of trafficking that included all labour sectors, rather than prostitution only. See: J Doezema, *Sex Slaves and Discourse Masters: The construction of trafficking*. 2004 doctoral dissertation, pp. 146–7. Available online at: <https://docs.google.com/a/uw.edu/viewer?a=v&q=cache:AP8kN2qN8zsJ:myweb.dal.ca/mgoodyea/Documents/Migration%2520studies/Sex%2520slaves%2520and%2520discourse%2520masters%2520-%2520The%2520historical%2520construction%2520of%2520trafficking%2520in%2520women%2520Doezema%25202004%2520DPhil%2520Thesis%2520ISD.doc+jo+doezema+sex+slaves+and+discourse+masters+the+historical+>

Holding the US accountable to Human Rights Principles

We are now in a historic moment when human rights and sexual rights are beginning to be introduced into frames of both sex work and human trafficking.⁷⁴ For the first time in more than a decade, sex workers in the US are finally gaining political ground. Cracks have appeared in the almost hegemonic US approach to trafficking in persons. And perhaps for the first time in US history, sex workers and their allies have developed workable recommendations for change on the federal and international level.

Advocates recognised early on in the UPR process that translating the rhetorical success of the UPR into tangible policy results would require decades of work. The UPR process gave rise to an active working group of sex worker rights advocates who have continued to collaborate with working group members beyond organising around the UPR. Advocates with the BPPP have committed to maintaining a presence in Washington, D.C. with a dedicated policy consultant monitoring and analysing related policy actions, including the Washington, D.C. policies on Prostitution Free Zones. The process has also inspired other advocate working group members to generate more collaborative-based research on sex work issues and to address the dearth of quality data available.

The pre- and post-UPR processes discussed above represent small victories for the range of individuals involved in sexual commerce as well as their allies and activists. We now face a unique opportunity—afforded by a global mandate of the United Nations—to begin systematically implementing human rights principles into research, activism, and policies regarding both sex work and human trafficking. In his concluding statement to the Human Rights Council, Harold Koh,

construction+of+trafficking+in+women+Doezema+2004&hl=en&gl=us&pid=bl&srcid=ADGEESiymMEJ8TvrQnjAfEb2a-YevZkQ_d0mvjyOkVy-3QRZA5anbBB6zauCP_4ufx-_ohMrb4bkS6Cc5H-9vqjg6LOIZJu9TEloSo08-Pn06N2T08kd bZyb4v4DlMh7qHKgSabqDFzN&sig=AHIEtbSkTZVNNn8eUDsJsW27zf1MftiUsg, Retrieved June 2012. See also: J Doezema, *Sex Slaves and Discourse Masters: The construction of trafficking*, Zed Books, London, 2010.

⁷⁴ See: Center for Health and Gender Equity, Center for Human Rights and Humanitarian Law at American University Washington College of Law, *Human Trafficking, HIV/AIDS, and the Sex Sector*, Human Rights for All, CHANGE and Center for Human Rights and Humanitarian Law AUWCL, 2010, retrieved September 2011, <http://www.genderhealth.org/files/uploads/change/publications/hivaidsandthesexsector.pdf>.

Legal Adviser of the State Department, stated that, ‘this is an ongoing process leading to concrete policy and self conscious change’. Sex work activists and researchers in the fields of sexual and reproductive health, human rights, and justice must continue to work together—along with our international allies—to hold US governing and policing institutions accountable to human rights principles for all people engaged in sex trade work.

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