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CRITIQUE OF FOCUS ON DEMAND IN THE CONTEXT OF TRAFFICKING IN PERSONS

A Position Paper of the Sex Workers Project at the Urban Justice Center

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I. Introduction

Recent U.S. legislation and policies, ostensibly aimed at ending trafficking in persons, have focused on the demand for commercial sex as the main culprit. However, the role of demand as the main driver of human trafficking is highly contentious.¹ Economists note that no market can be completely explained by either demand or supply alone. *Both* factor into the sex industry and thus, addressing one side of the equation will not solve problems relating to the rights and needs of sex workers.² Studies have shown many factors—such as cost, personal preference, and social dynamics—influence the behavior of customers in the commercial sex sector³—as in any economic market—and “a supply of prostitutes who are willing or forced to sell sex at affordable prices creates demand as much as the other way about.”⁴ On the supply side, poverty, unemployment, the search for economic and other opportunities, and gender inequality combine to put many people at risk for exploitation and abuse during the migration process or once they arrive at their intended destination. Addressing these causes of the “supply” will do far more to protect the rights of sex workers and of trafficked persons than ineffective attempts to curb “demand.”

II. What is Demand?

In the context of trafficking in persons, specifically into sex work, “demand” most commonly refers to the clients who pay for sexual labor and services. “Supply” most

¹ See Debbie Nathan, “Anti-Trafficking Efforts Too Often Neglect Other Forms of Forced Labor,” *The Nation* (Aug. 29, 2005), available at <http://www.thenation.com/doc/20050829/nathan> (Nathan discusses the focus on demand in anti-trafficking initiatives).

² See, e.g., B. Anderson & J O’Connell Davidson, *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*, (published by The International Organization for Migration), INT’L MIGRATION RES., Series No. 15, 1-54, 19-20; 22-25 (2003).

³ Id. at 16-26.

⁴ Julia O’Connell Davidson, *Sleeping with the Enemy?* SOCIAL POLICY & SOCIETY, Volume 2, Issue 1, 55-63, 59 (2003).

commonly refers to those who provide the labor and services, such as sex workers, but can also refer to employers, pimps, and those who transport people for sex work.

Law enforcement efforts and resources to combat trafficking in persons are often diverted to combat sex work. This is due to long-standing efforts of some advocates and policymakers to conflate trafficking in persons and prostitution as being the same thing. This conflation has resulted in a mis-direction of anti-trafficking resources and an obscured focus. One consequence of these efforts has been the recent call for “ending demand.” Therefore, current anti-trafficking efforts have become improperly focused on targeting and prosecuting clients in the mis-guided hope that this will decrease the incidence of human trafficking.

III. Overview of Policy Approaches to Sex Work

Historically, there has been a degree of tacit acceptance of sex work.⁵ Recent authors have confirmed that in many societies, the use of prostitution is considered to be a male “right of passage” and a normal part of male sexual behavior.⁶ However, prostitution has also been the focus of blame during “moral panics,” such as concern over “white slavery” in the early 1900s, outbreaks of sexually transmitted infections (STIs) during World War I, and the emergence of HIV/AIDS in the 1980s.⁷ While the purchase of sexual labor and services is forbidden in most jurisdictions, the clients of sex workers

⁵ See, e.g., Don Kulick, *Four Hundred Thousand Swedish Perverts*, *GLQ*, 11:2, 205-235, 213 (2005) (Kulick cites one Swedish author who proposed in the 1960s that the government should establish regulated brothels, explaining: “For the unmarried man, brothels would be a huge time-saver...[And] sexually worn-out wives would get relief by sending their husbands to these houses of joy”).

⁶ See, e.g., Elizabeth Bernstein, *The Meaning of the Purchase*, *ETHNOGRAPHY* 2(3), 389-420, 392 (2001) (Stating that “during the last 30 years, demand for commercially available sexual services has not only soared but become ever more specialized...Sexual commerce has become a multi-faceted, multi-billion dollar industry”).

⁷ Don Kulick, *Sex in the New Europe: The Criminalization of Clients and Swedish Fear of Penetration*, *ANTHROPOLOGICAL THEORY*, 3(2): 199-218, 208 (Sage Publications 2003).

have historically received less attention from law enforcement and the criminal justice system than sex workers.

In the 1990s in Europe, attitudes began shifting significantly towards sex work and its place in society. Some countries, such as the Netherlands, had long recognized its role in the economy and had decriminalized and regulated voluntary sex work engaged in by citizens of the European Union in an effort to make the practice safer for sex workers and their clients.⁸ In the late 1990s in Sweden, feminist activists and others prompted renewed condemnation of prostitution and sex work as female “‘exploitation’” and as an inherent form of “‘violence against women.’”⁹

In 1999, fuelled by this feminist rhetoric, as well as concerns over European unification and the potential for a surge in the supply of foreign sex workers entering the country, Sweden enacted the Violence Against Women Act.¹⁰ This Act criminalized the purchase of sex by male customers.¹¹ Building on a vein of feminist theory that equated the purchase of sexual services with sexual abuse, academic and political position papers in support of the law cast the clients of sex workers as not only politically unenlightened, but also as “deviant and psychologically disturbed.”¹² Clients are viewed as predatory males who want to dominate women, and all forms of sex work are equated with sexual abuse and inherent violence against women. The movement to punish the customers of sex workers, more commonly referred to as “ending demand,” in Sweden and elsewhere,

⁸ See generally, Report by a Working Group on the Legal Regulation of the Purchase of Sexual Services, Norwegian Ministry of Justice and Police Affairs, *Purchasing Sexual Services in Sweden and the Netherlands: Legal Regulation and Experiences* 1-59, 24-26 (Oct. 8, 2004), available at: <http://odin.dep.no/jd/english/012101-990578/dok-bn.html>.

⁹ Elizabeth Bernstein, *Border Wars: Migration and the Regulation of Sex-Work in the New Europe*, TRAFFICKING AND ITS DISCONTENTS (Sea-Ling Cheng and Carol Vance, eds. 2004) 1-16, 4-5 (forthcoming; paper on file with the Sex Workers Project at the Urban Justice Center).

¹⁰ Kulick, *supra* note 5, at 209-210.

¹¹ *Id.*

¹² *Id.* at 217.

has cast sex workers exclusively as victims. The prospect that anyone would make a decision to engage in sex work has been rejected outright. Discourse on “ending demand” focuses almost exclusively on women and girls, ignoring male and transgender sex workers, who comprise a significant portion of the sex worker community.

This approach ignores the assertions of sex workers who have reported that their clients generally represent a lesser threat to their safety and well-being than law enforcement.¹³ It also directly contrasts with research in the U.S. that has found that clients generally do not dislike or seek to abuse sex workers, but rather, they often find their encounter to be “a meaningful and authentic form of interpersonal exchange.”¹⁴

IV. How Does Current Law Attempt to End Demand in the U.S.?

In January 2006, President George W. Bush signed the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005.¹⁵ The TVPRA of 2005 included sections of another piece of legislation that had failed to pass through Congress on its own, the End Demand for Sex Trafficking Act of 2005, which was aimed at ending the demand for sex work in the United States. This part of the TVPRA is an effort by Congress and the Bush Administration to adopt the Swedish model, which punishes clients of sex workers, in the belief that it will help eliminate the sex industry. Politicians attended the signing ceremony from both the Right and the Left, as did an unusual

¹³ See Urban Justice Center, *Revolving Door: An Analysis of Street-Based Prostitution in New York City*, 1-98, 34-42, 53 (Sex Workers Project/Urban Justice Center) (June 23, 2003), available at: <http://www.sexworkersproject.org/reports/RevolvingDoor.html> (The report describes police harassment, violence, and sexual assault against sex workers in New York City, as well as sex workers’ perception that police harassment and abuse are amongst the biggest difficulties and dangers they face).

¹⁴ Bernstein, *supra* note 6, at 402.

¹⁵ Trafficking Victims Protection Reauthorization Act, Pub. L. 109-164, 119 Stat. 3558, 22 USCS § 7101 (2005) [*hereinafter* TVPRA 2005];. See also, Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386 Division A, 114 Stat. 1464 (2000) (codified as amended in scattered sections of the U.S.C.) [*hereinafter* TVPA]. The TVPA was amended and reauthorized in December 2003 by the Trafficking Victims Protection Reauthorization Act of 2003, Pub. L. No. 108-193, 117 Stat. 2875 (2003) (codified as amended in scattered sections of the U.S.C.) [*hereinafter* TVPRA 2003].

coalition of supporters from the Religious Right and the American feminist movement. Those who applaud the law view it as a vehicle for imposing conservative moral values in the U.S. and as a way to “save” victims of trafficking from prostitution.

Specifically, the “End Demand” section of the TVPRA 2005 provides federal funds to state and local jurisdictions to “investigate and prosecute persons who purchase commercial sex acts”¹⁶ and to “educate persons charged with, or convicted of, purchasing or attempting to purchase commercial sex acts.”¹⁷ There has also been a recent push to fund “John Schools,” which were developed in earnest in 1995 with the establishment of the country’s first “John School” in San Francisco.¹⁸ Customers of street prostitutes arrested as first-time offenders attend one-day courses to educate them about prostitution’s negative effects on sex workers, on society, and on the customers themselves.¹⁹ However, very little scientific research has been done on the actual effectiveness of John Schools in curbing the demand for commercial sex.²⁰ A Canadian study published in 2001 found that a significant number of clients said they would continue to frequent sex workers even after attending John School.²¹ Another Canadian report found that John School programs tend to focus on clients from lower socio-economic classes (often clients of street-based sex workers, as opposed to clients who

¹⁶ TVPRA 2005, Pub.L. No. 109-164, Sec. 204(a)(1)(B).

¹⁷ *Id.* at Sec. 204(a)(1)(C).

¹⁸ “John School” is a commonly used term for re-education programs for customers of sex workers on their first arrest. *See* J. Marlowe, *John School, San Francisco: Background*, (Sex Workers Alliance of Vancouver 1996), available at: <http://www.walnet.org/csis/groups/swav/johnschool/jsbackgrnd.html>

¹⁹ *See* Urban Justice Center, *supra* note 13, at 21.

²⁰ *See generally* Martin A. Monto & Steve Garcia, *Recidivism Among the Customers of Female Street Prostitutes: Do Intervention Programs Help?*, *W. CRIMINOLOGY REV.* 3 (2) (2001), available at: <http://wcr.sonoma.edu/v3n2/monto.html> (Finding inconclusively that rates of recidivism for men who participated in offender education programs, as well as for men who did not participate in such programs, were low).

²¹ Scot Wortley, Benedikt Fischer & Cheryl Webster, *Vice lessons: A survey of prostitution offenders enrolled in the Toronto John School Diversion Program*. *CANADIAN J. OF CRIMINOLOGY*, 3(3), 369-402, 389 (2002) (Among men who admitted to patronizing sex workers on 5 or more occasions, participation in John School had little or no affect on their intention to purchase sex in the future).

made contact with sex workers indoors) and denied customers “due process” by pressuring them to opt for John School rather than defending their charges in court.²² An earlier study by the Canadian federal Department of Justice reported that there was “little evidence that John-shaming measures have resulted in the diminution of street prostitution.”²³ Rather, such efforts simply move sex work from one area to another, and have also resulted in family breakups and divorces.²⁴ In fact, John Schools have proven ineffective,²⁵ and the promises of the Johns not to seek sex workers in the future are unverifiable.

The TVPRA of 2005 provides funds for services for trafficked persons and funds for research and prosecution of traffickers: to determine (1) “the estimated number and demographic characteristics of persons engaged in sex trafficking and commercial sex acts, including the purchasers of commercial sex acts,”²⁶ and (2) “the estimated value in dollars of the commercial sex economy.”²⁷ The Act also seeks to further the policy of “ending demand” by providing funds to hold a national conference on trafficking,²⁸ at which the U.S. Attorney General would inform state and local law enforcement personnel on the best way to investigate and prosecute clients of sex workers.²⁹ These sections of the TVPRA include the term “commercial sex acts,”³⁰ thereby conflating trafficking of

²² Benedikt Fischer & Scot Wortley, et al, *The Socio-Legal Dynamics and Implications of ‘Diversion: The case study of the Toronto ‘John School’ diversion program for prostitution offenders*, CRIM. JUST. 2(4) 385-410, 401-405 (2002).

²³ A Working Group on Prostitution, Canadian Department of Justice, *Report and Recommendations in Respect of Legislation, Policy and Practices Concerning Prostitution-Related Activities* (Dec. 1998) Part III(B)(ii)(c), available at: www.canada.justice.gc.ca/en/news/nr/1998/toc.html.

²⁴ Id. at Part III(B)(ii)(c),

²⁵ Wortley, *supra* note 21, at 389.

²⁶ TVPRA 2005, Pub.L. No. 109-164, Sec. 201(a)(1)(B)(ii)(I).

²⁷ Id. at Sec. 201(a)(1)(B)(ii)(II).

²⁸ Id. at Sec. 201(a)(2).

²⁹ Id. at Sec. 201(a)(2)(A)(iii).

³⁰ Id. at Sec. 201(a)(2)(A).

persons into sex work with all aspects of the sex industry, both voluntary and involuntary, legal and illegal.

This “end demand” piece of the TVPRA³¹ has been strongly criticized by many civil and human rights advocates as an ineffective and politically motivated effort to further the conservative agenda around prostitution and sexuality. The “end demand” sections of the TVPRA of 2005 authorize minimal levels of funding for services for trafficked persons, while authorizing the bulk of its funding for unproven and ineffective programs aimed at arresting clients of prostitutes.³² Advocates also argue that this is unworkable and improperly brings prostitution, a state and local issue, under the purview of the federal government.³³

The U.S. emphasis on addressing demand for sex work is almost exclusively oriented to the criminal justice solutions of arresting and embarrassing clients, rather than on addressing issues of concern to sex workers or vulnerability to being trafficked. Therefore, critical political will and resources are pointed exclusively to law enforcement and fail to address the factors that affect the decision to engage in sex work or to migrate

³¹ Id. at Sec. 204.

³² See generally, Global Rights, International Organization for Adolescents, Lawyers Committee for Civil Rights, The Door, and the Sex Workers Project at the Urban Justice Center, *Comments on Bill To End Demand for Sex Trafficking Act of 2005* (April 22, 2005), available at: http://www.globalrights.org/site/DocServer/Comments_on_End_Demand_bill_4.22.pdf?docID=2203. See also, Ann Jordan, Juhu Thukral, Alison Boak, Christa Stewart, & Kathleen Kim, *Letter to Senator John Cornyn 2* (April 22, 2005), available at: http://www.urbanjustice.org/pdf/publications/swp_sen_cornyn_22apr05.pdf (Advocates state: “The bill concentrates heavily on prosecutions as a means to reduce the incidence of commercial sex acts. While prosecutions are important and necessary, if the main purpose of the bill is to reduce the number of people who enter into the commercial sex sector and to help people transition out of working in the commercial sex sector [some of whom may be vulnerable to being trafficked], the bill should target funding on programs and research directed at prevention”).

³³ Jordan, et. al, *supra* note 32.

for work, including: the inability to make a living wage, lack of opportunities, and gender and sexual inequity.

These factors feed the supply of migrants who find employment in the American underground economy. The U.S. demand for cheap labor increases the incidence of trafficking of persons for many kinds of jobs, including agricultural work, domestic work, restaurant work, and factory labor. Reforming migration and labor laws would allow more of these workers to enter the country legally and reduce the number of people who fall prey to traffickers. The TVPRA's focus on ending demand for sex work offers no solution to the general issue of trafficking in persons.

V. Why Focusing on Demand Does Not Address the Rights and Needs of Sex Workers or Trafficked Persons

Punishing the demand side of the sex industry equation does not achieve the outcomes its supporters intend.

Moving Sex Workers Further Underground:

Reports have shown that the demand-focused legislation enacted in Sweden has met with poor results.³⁴ In fact, the law has merely had the effect of reducing the presence of street-based sex workers.³⁵ Demand for sex workers has not been stopped—instead, prostitution has shifted off the streets because of the threat of arrest for clients.³⁶ This has resulted in an increase in the demand for indoor prostitution, as well as the demand for other kinds of sex work, including pornography, phone sex and internet sex.³⁷

³⁴ See, e.g., Kulick, *supra* note 7, at 204 (Kulick reports that “while street prostitution was initially [and it seems, temporarily] affected, researchers report that the passage of the law corresponded to an increase of the number of sex advertisements on the Internet).

³⁵ Report by a Working Group on the Legal Regulation of the Purchase of Sexual Services, *supra* note 8, at 53.

³⁶ Bernstein, *supra* note 9, at 6-7.

³⁷ *Id.* at 6-7; 9.

Increased Danger of Violence:

Studies conducted to assess the effectiveness of the Swedish approach in ending demand have confirmed that the risk of violence for sex workers has increased.³⁸ According to sex workers in Sweden, the increased attention to demand has resulted in a decrease of regular clients; the customers who are still willing to take the risks are often those who have problematic approaches to sexuality, requesting “rough” sex or refusing to use condoms.³⁹ Finally, the criminalization of demand has resulted in a dearth of clients willing to collaborate with the police to unveil sex workers’ abusers, due to clients’ fear of being prosecuted.⁴⁰

The Health of Sex Workers, Clients, and the Community:

When sex workers are pushed further underground, they have a more difficult time accessing health and outreach services, making HIV/AIDS and STI prevention nearly impossible. The invisibility of sex workers constitutes the biggest obstacle to outreach workers in terms of HIV/AIDS and STI education and prevention.⁴¹ In contrast, the government of Brazil’s receptive collaboration with sex workers has led to a significant decrease in the spread of HIV/AIDS and STIs among sex workers and in the larger population as well.⁴² These results have been possible thanks to the openness of the

³⁸ Kulick, *supra* note 7, at 204.

³⁹ Petra Ostergren, *Sexworkers’ Critique of Swedish Prostitution Policy*, (2004), available at: <http://www.petraostergren.com/content/view/44/108/>.

⁴⁰ Kulick, *supra* note 7, at 204.

⁴¹ UNAIDS, *Sex Work and HIV/AIDS*, UNAIDS TECHNICAL UPDATE 1-20, 13 (June 2002), available at: http://data.unaids.org/Publications/IRC-pub02/JC705-SexWork-TU_en.pdf.

⁴² Reel Monte, *Where Prostitutes Also Fight AIDS: Brazil’s Sex Workers Hand Out Condoms, Crossing US Ideological Line*, WASH. POST, A14 (March 2, 2006), available at: <http://www.washingtonpost.com/wp-dyn/content/article/2006/03/01/AR2006030102316.html> (Monte reports that because of a “working partnership” between sex workers and the Brazilian government, the number of HIV-infected individuals in Brazil is only half the amount that the World Bank projected a decade ago).

sex workers to educational programs discussing the importance of using condoms and the instillation of a conscience of “social good” in the sphere of sex work.⁴³

Harming Human Rights of Sex Workers:

Demand-focused efforts against trafficking in persons also have an added effect of contributing to an atmosphere that promotes a lack of commitment to the rights of sex workers. At the same time that there has been increased interest in focusing on demand, the U.S. government has implemented an Anti-Prostitution Pledge into its funding for services relating to HIV/AIDS and trafficking in persons.⁴⁴ This approach endangers the work of many organizations around the world working successfully with sex workers who do not want to take a position against sex workers and prostitution.⁴⁵

VI. Human Rights Framework

Sex workers who make a knowing decision to engage in the profession maintain the same rights as workers in any sector: rights to liberty; freedom of expression; freedom from discrimination; and equal access to services such as health care.

⁴³ Id.

⁴⁴ United States Leadership Against HIV/AIDS, Tuberculosis, AND Malaria (Global AIDS Act) Pub. L. No. 108-199; 22.U.S.C.S. § 7631(e)-(f) (2004) (These subsections respectively mandate that no funds “may be used to promote or advocate the legalization or practice of prostitution or sex trafficking” or “to provide assistance to any group or organization that does not have a policy explicitly opposing prostitution and sex trafficking”). *See also*, TVPRA, 22 U.S.C. 7110(g) (2) (2003) (This section prohibits U.S. funding for organizations that tacitly “promote, support, or advocate the legalization or practice of prostitution”). *See also*, Cable from Colin Powell, Secretary of State, U.S. Government, to USAID field offices worldwide (Jan, 2003) (Excerpt of cable on file with the Sex Workers Project at the Urban Justice Center) (Powell directly states that “organizations advocating prostitution as an employment choice or which advocate or support the legalization of prostitution are not appropriate partners for USAID Anti-trafficking grants and contracts, or sub grants and sub-contracts”).

⁴⁵ Human Rights Watch, *U.S.: Restrictive Policies Undermine Anti-AIDS Efforts: Letter to President Bush Opposing Mandatory 'Anti-Prostitution Pledge,' which Threatens Lives of Sex Workers and Trafficking Victims*, (May 18, 2005), available at: <http://hrw.org/campaigns/hiv/AIDS/hiv-aids-letter/>. *See also*, *Center for Health and Gender Equity, Implications of U.S. Policy Restrictions for Programs Aimed at Commercial Sex Workers and Victims of Trafficking Worldwide*, Policy Brief (Nov. 2005), available at: <http://www.genderhealth.org/pubs/ProstitutionOathImplications.pdf>.

The unintended consequences of demand-focused policies pose a serious dilemma within the human rights framework, as they result in the violation of several human rights guaranteed by numerous Covenants and International Human Rights instruments of which the US is a signatory. These include the right to health; to information; and to nondiscrimination and equal protection..

Right to the Highest Attainable Standard of Health:

The right to the highest attainable physical and mental health standard is guaranteed by a long series of human rights instruments: the Universal Declaration of Human Rights (UDHR) (Preamble and Art. 25),⁴⁶ International Covenant for Economic Social and Cultural Rights (ICESCR) (Art. 12),⁴⁷ Convention for the Rights of the Child (CRC) (Art. 24),⁴⁸ Convention for the Elimination of Discrimination Against Women (CEDAW) (Art. 12)⁴⁹, International Convention on the Elimination of Racial Discrimination (ICERD) (Art. 5)⁵⁰ and the UN Human Rights Resolution on the “enjoyment of the highest attainable standard of physical and mental health.”⁵¹ The above-listed human rights instruments all seek to guarantee that State parties take responsibility for the assurance of the highest attainable health standards. ICESCR Art. 12 in particular, highlights the “right to prevention, treatment and control of diseases,”

⁴⁶ Universal Declaration of Human Rights, Dec. 10, 1948, GEN. ASSEMBLY RESOL. 217 A (III).

⁴⁷ International Covenant for Economic Social and Cultural Rights, GEN. ASSEMBLY RESOL. 220A (XXI), 21 U.N. GAOR Supp. (No. 16), U.N. Doc A/6316 (1966), 993 U.N.T.S. 3, (*entered into force* Jan. 3, 1976).

⁴⁸ Convention for the Rights of the Child, GEN. ASSEMBLY RESOL. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc A/44/49 (1989), (*entered into force* Sept. 2, 1990).

⁴⁹ Convention for the Elimination of Discrimination Against Women, GEN. ASSEMBLY RESOL.34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, (*entered into force* Sept. 3, 1981).

⁵⁰ International Convention on the Elimination of Racial Discrimination,, GEN. ASSEMBLY RESOL. 2106 (XX), Dec. 21, 1965, (*entered into force* Jan. 4, 1969).

⁵¹ United Nations Human Rights Resolution, *The right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, Human Rights Resolution 2005/24, 51st meeting, Apr. 15, 2005.

and implies a positive obligation for State parties to take the necessary steps to ensure that such prevention, treatment and control reaches all their citizens.

“End demand” policies and the Anti-Prostitution Pledge both prevent the State from performing its task in guaranteeing HIV/AIDS and STI education and prevention for sex workers because both lead to sex workers being driven further underground., In addition, “end demand” policies create an environment where sex workers are even more vulnerable and susceptible to violence..

Right to Information:

The right to information is guaranteed by the UDHR (Art. 19),⁵² CEDAW (Art. 10 (h)),⁵³ CERD (Art. 7),⁵⁴ and CRC (Art. 14).⁵⁵ Access to information is essential to secure the right to the highest attainable health standards. This is also expressly specified by Article 12 of ICESCR, which defines the right to health as the right to information and education concerning health problems, prevention and control. “End demand” policies and the Anti-Prostitution Pledge, by hindering the efforts of outreach workers, severely undermine sex workers’ right to information, with negative consequences to their enjoyment of the critical right to health.

Right to Nondiscrimination and Equal Protection:

Article 26 of the ICCPR prohibits discrimination on the basis of sex.⁵⁶ The “end demand” piece of the TVPRA 2005, by focusing only on women and children, ignores a

⁵² UDHR, *supra* note 46.

⁵³ CEDAW, *supra* note 49.

⁵⁴ CERD, *supra* note 50.

⁵⁵ CRC, *supra* note 48.

⁵⁶ International Covenant for Civil and Political Rights, GEN. ASSEMBLY RESOL. 2200A (XXI), Dec. 16, 1966 (*entered into force* March 23, 1976).

significant portion of sex workers, such as men and transgender individuals, denying them equal access to necessary services solely on the basis of anatomical sex.

Conclusion

Individuals engaged in sex work have historically been marginalized by criminal laws, lack of access to necessary health and social services, and social stigmatization. Recent policies aimed at ending demand for prostitution, including aspects of the TVPRA 2005 and Sweden's 1999 law criminalizing the purchase of sexual services, have perversely served to further marginalize, delegitimize, and harm sex workers. Rather than ending demand, these laws have simply driven sex workers underground, forcing them to work in dangerous conditions, accept dates from clients who may demand rough sex or sex without a condom, and utilize covert mediums to advertise and work.

Policymakers and advocates should be aware of the detrimental aspects and unintended consequences of "end demand" policies, which are often couched in feminist or victim-centered language, but in practice serve to harm individuals engaged in sex work.