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For the Attention of: Committee on the Elimination of Discrimination of Women

Subject: Written submission for CEDAW discussion on the General Recommendation on Trafficking in Women and Girls in the context of Global Migration (General discussion on TWGCGM)

Date: February 2019

Introduction

Desiree Alliance is a United States coalition of current and former sex workers working together with supporting networks for an improved understanding of sexual policies and its human, social and political impacts of criminalization's surrounding sex work. Our priorities are building local, regional, and national leadership to constructively advocate sex workers' human, health, labor and civil rights. We commit ourselves to the tenets of human rights and base our foundations upon equality, empowerment, and agency, to bring those voices into constructive and productive leadership roles in the sex worker rights movements and umbrella issues unique to sex workers. We advocate for the full anti-criminalization of all consensual sex work.

In the United States, criminalization of sex trafficking has enmeshed with consensual sex work at a fevered pitch. Although we have witnessed a global reaction to human trafficking atrocities, we can only speak of where our expertise lies within the United States. We speak for and represent sex workers and sex worker rights organizations in the United States.

Trafficking, Migration, and Immigration Policies in the United States

Efforts to accommodate migrations and immigrations in the United States have been met with open hostilities despite legal obligations to provide concrete definitions of human trafficking. Political deterrents ignore the realities of immigrations and migrations, yet, tout the tribulations of an epidemic while rejecting the existence of the dynamics and intricacies constructing human trafficking in capitalistic economies. Thousands of migrant people are currently detained in inhumane cages across the United States. A multitude of children have been separated from families that are now deported without the possibilities for reconciliations. Migrant children are currently being adopted out in the United States because of ill-thought plans regarding these hastily placed policies of separation and reunification. The United States has become the world's biggest human traffickers without consequence of global interventions. Eradicating human trafficking becomes a moot point as U.S. trafficking policies become a monetary marketing stepping-stone compiled off immigrant and migrant people's backs. The current administration publicly decries the most heinous of human trafficking brutalities while procuring abominable practices that define the very definitions of human trafficking of force, fraud, and coercion. These include but not limited to detention rape, separation, exploitation, isolations, harboring, confinement, humans as fluid capital, forced labor, and other well-documented barbaric human rights violations executed by the United States government. We have steered away from our humanitarian and lawful obligations and handed it to those enforcing authoritative absolutism in our government. Current Visa restrictions, Muslim bans, transportation bans, No-Fly lists, etc. harm family's abilities to assist one another, keep cultural ideologies that are necessary for well-being, and continued family binds. These punitive policies are not born out of common-sense legalities regarding human trafficking, these enactments are born out of highly commercialized fear that is not based in law.

The United States has currently declared domestic war on immigrants and migrants. The southwestern borders have been declared a war zone and security measures to keep "terrorists out" have increased beyond military standard measures to keep our borders safe. Immigration has become the focus of the current administration, and in no other sensible terms to describe it, considered a witch hunt. The current impact on our borders and security under this administration is highly publicized in global medias that show family structures being torn apart through militarized border control on a daily basis. Border Patrol agents have unlimited access to non-citizens with little supervisorial oversight in handling discipline when violations occur.

Cedaw is in a unique position to address rights-based and comprehensive migration and immigration policies in the United States.

Sex Work, Immigration, and Migration in the United States

Current U.S policies regarding prostitution, immigration, and migration are concerningly problematic. The federal enmeshments of *Fight Online Sex Trafficking Act – FOSTA* and *Stop Enabling Sex Traffick Act – SESTA*, have created far-reaching carceral penalties attached to citizenship, sex, work, and labor. Although the intended legislations are designed specifically to penalize sex trafficking commerce through the World Wide Web, the broadly-written federal

enactments have produced an offline hydra of state sex trafficking legislations that market factors of fear in lieu of facts. Online advertising venues that could procure a safety net for immigrant and migrant women have all but been wiped out. A myriad of enforcement tactics has produced an Anti-Trafficking Industrial Complex under a save and rescue guise in the plight to abolish human trafficking. Policed Task forces are being created to literally hunt migrants on the pretext of eradicating sex trafficking in the United States. Documented law enforcement raids on massage and spa businesses, commonly migrant/immigrant women, produce punitive consequences and charged as traffickers along with workers who have allegedly been trafficked. Many of these businesses employ migrant women who are arrested, incarcerated, deported, and many times, immediately deported back to their country of origin. These are not your perfect victims of trafficking, and therefore, rendered inconsequential under the federal guidelines related to human trafficking. The threat of deportation to a country that may pose great dangers to women who have been arrested as a trafficker, as a victim (victims are arrested on initial police contact), or one who has participated in acts of prostitution, no matter if forced, frauded, or coerced, can be a potential death sentence, determine cultural outcastings, experience familial abandonments, and highly vulnerable to exploitations beyond her self-determinations.

The purpose of global human trafficking guidelines is to determine exploitations and distinctions of labor, sex, and human exchanges that move fluidly through borders. In the United States, we have not witnessed these distinctions. Instead, migrant and immigrant sex workers have been met with violence, rogue unregulated militia, violations of sensical immigration policies, and irrational management of such policies, laws, and regulations. There has been little effort on behalf of the U.S. government to address the root causes of human, labor, and sexual trafficking and instead, used against those who have been negatively impacted by the very laws intended to help them against abuses.

We urge CEDAW to acknowledge and act upon these documented reports of human rights violations against migrant and immigrant women.

Sex Work and Criminalization in the United States:

The Desiree Alliance views the right for consensual sexual freedoms as fundamental civil liberties every citizen is afforded to engage in without legal recourse, without policing, and without moral repercussions. The recent federal enactments of FOSTA/SESTA concerning human trafficking have become convoluted within federal sex trafficking guidelines. The enmeshment of sex trafficking and consensual sex work have blurred the lines not only with law but anti-trafficking awareness rhetoric, making it difficult to discern those who are/have been sexually trafficked and those who choose prostitution as a means of economic viability.

To come to any sort of cogency regarding U.S. trafficking data, one must sift through the multitude of government sites with thousands of pages of state and federal arrests/convictions, trudge through endless data on federal/state law enforcement sites, search separate government contractors tasked with the record-keeping of global trafficking incidents, track tier countries in compliance/non-compliance with US guidelines, read national and global trafficking reports, etc. The expectations are minimal that the lay public will delve further into trafficking research other than social medias, memes, posters, hashtags, anti-trafficking websites, and celebrity

spokespersons. This disturbing trend in how the U.S. sets up sex trafficking narratives as marketing awareness campaigns, counters any productivity concerning sex trafficking and the dynamics that create illicit commerce. Marketing mass hysteria to gain public support reifies trafficking in all forms, (i.e. labor, sex, and human trafficking) and furthers the demand for these economies to thrive in clandestine markets regardless of government objectives to curb or eradicate trafficking. We reject the frameworks of anti-trafficking discourses as conflated and ultimately dangerous to those who labor in alternative economies that the laws do not protect and serve or, wholly provide representations. We acknowledge trafficking exists in the most deplorable and heinous conditions through capital means of demand and supply/supply and demand. However, when government entities and funded stakeholders are not held accountable for accurate trafficking data, the burden of proof lies upon public knowledge of such data. Incorrect data purposely distorts the right of the public to make informed decisions and skews the balance of how far governments can regulate consensual sexual freedoms.

The federal guidelines of The Trafficking Victims Reauthorization Protection Act – TVRPA are intentioned to assist and protect women and children who have been trafficked. However, these guidelines leave room for a variety of interpretations left to individual states to decide what constitutes sex trafficking. In the last year, under these interpretations, we have witnessed hundreds of legislations introduced by individual states that address human trafficking. Many of these bills do not address human trafficking in specifics and instead are used to create pipelines to incarcerate and punish consensual sex workers as well as victims of sex trafficking. Enacting laws upon existing laws only expands the consumption for underground labor forces that ultimately hinder and defeat the purpose of the laws designed to aid victims of trafficking. These deterrents do not mitigate or alleviate circumstances of human trafficking, and only exacerbates the installation of fear and retributions of dangerous retaliations put upon by the United States government. Impractical and ineffective laws designed to benefit women and children impacted by sex trafficking are met with policed enforcements and create mass barriers to resources that are non-existent. The 2018 United States response to combat human trafficking in the TIP Report (Pg. 450) holds this up “*Although the government meets the minimum standards, anti-trafficking advocates continued to report that victim services were not always provided equitably, urging an increase in resources for, and equitable access to, comprehensive services across the country. Advocates reported a lack of sustained effort to address labor trafficking compared to sex trafficking, and also reported continued instances of state and local officials detaining or prosecuting trafficking victims for criminal activity related to their trafficking victimization.*”. We have to ask ourselves the question: What is the purpose of laws intended to protect victims of sex trafficking when the collateral damage of save and rescue is painfully high?

The 2018 TIP Report also admits to “*The U.S. government increased the number of prosecutions and convictions but demonstrated a decrease in investigations.*” (Pg. 451). The Desiree Alliance finds this deeply problematic as sex trafficking has not proven epidemic in the United States. No statistics put forth by the US Justice Department, FBI, or credible research has shown an epidemic in human trafficking in the United States. Yet, arrests and detainment are being made in abundance without clear definitions of what constituted trafficking charges made against the individuals. Factually, government trafficking statistics represent hyper-criminalization and arrests disproportionately affecting communities living in economic disparities and in communities of color.

Recommendations:

- Identify gaps between funding and resources in the United States. If we are to truly combat sex trafficking, we must be able to provide viable means for women to feel safe. Watered-down or non-existent resources cannot be considered adequate if we are to assist women exiting trauma-induced environments. We ask CEDAW to prioritize victim services over carceral agendas.
- We ask CEDAW for written clarifications regarding the distinctions between consensual sex work and sex trafficking. We request the written clarifications have input of those who work in consensual sex and those who have experienced sex trafficking. We recommend the written clarifications act as a guideline for those who seek to gain a better understanding between these distinctions.
- We ask CEDAW to recognize anti-trafficking awareness campaigns as ultimately harmful to U.S. sex workers. Misinformation to inform the public of sex trafficking is misguided, uneducated, and mass marketed to create fear. Sex workers face the brunt of the rescue industry's hyperbole through state sanctioned violence, hyper-criminalization, over-policing, targeting, and stigma.
- CEDAW is in a unique position to address the atrocities of current immigration and migration border policies in the United States. Migrant and immigrant sex workers are especially affected by these laws as they are under no protections of federal guidelines. This institution is severely flawed, and abuses run rampant. Without checks and balances, we can expect to see the continued misuse of the laws designed to protect.
- We request CEDAW to question the methods and motives of sex trafficking laws being enacted in the United States. Criminalizing consensual sex workers in the guise of anti-trafficking save and rescue mentalities is not conducive or productive for those wishing to exit prostitution and regain economic viability within their communities. Collateral consequences of a prostitution conviction(s) can hinder one's ability to maintain employment and procuring decent living accommodations. We must create ladders instead of barriers.

