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[Human Rights for U.S. Sex Workers now on Global Stage](http://thesocietypages.org/sexuality/2011/03/03/human-rights-for-u-s-sex-workers-now-on-global-stage/)

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by [Kari Lerum \(http://thesocietypages.org/sexuality/author/klerum/\)](http://thesocietypages.org/sexuality/author/klerum/), Mar 3, 2011, at 08:00 am

<http://thesocietypages.org/sexuality/files/2011/03/images.jpeg>



For the past few months, I have been honored to be part of a team of activists and researchers responding to developments involving the United Nations Human Rights Council, the US State Department, and matters concerning human rights abuses against sex workers. The team of which I am a part is one of many civil society groups invited to engage in dialogue with the State Department in response to the UN's Universal Periodic Review of the human rights record of the United States. For this blog post, submitted on March 3 – International Sex Workers' Rights Day – I will briefly share highlights of this unprecedented historic process.

The Universal Periodic Review (<http://www.ohchr.org/en/hrbodies/upr/pages/uprmain.aspx>) is a relatively new procedure created by the United Nations Human Rights Council (which itself was only created in 2006). Over the past three years (beginning in 2008 and ending in 2011) the human rights record of all member states of the global community have been and/or will be reviewed by the United Nations Human Rights Council in Geneva, Switzerland. This past November (2010), it was the turn for the current human rights record of the United States (as well as 15 other UN member states) to be reviewed. Upon review of the US record, more than 200 recommendations were made to the Obama administration, including the following by member state Uruguay [\[1\] \(# edn1\)](#): “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.”

Since its review in November, the US State Department has engaged in meetings with civil society representatives to help inform its response to the 228 UN recommendations. (The entire list of recommendations to the US can be found [here \(http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/100/69/PDF/G1110069.pdf?OpenElement\)](http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/100/69/PDF/G1110069.pdf?OpenElement)).

Uruguay's recommendation has generated an exciting and productive dialogue among people concerned with the welfare of sex workers and people in the sex trade. This historic moment has also created a refreshing opportunity to discuss sex work BOTH as a human rights issue AND as an issue that cannot be adequately addressed by responses to sex trafficking alone.

Will the US administration recognize this UPR recommendation, and make concrete steps to improving human rights for all, including sex workers (meaning ALL sex workers, including adult consensual sex workers AND those who are exploited or trafficked)? We are hopeful that it will. Judging by the outpouring of support we have received from leading researchers and organizations — representing sexual and reproductive health, law, and criminal justice — we are far from alone in this hope. Several formal letters of support have been received, including from former Surgeon General Dr. Jocelyn Elders, the [Center for Health and Gender Equity \(CHANGE\) \(http://www.genderhealth.org/\)](http://www.genderhealth.org/), and [Change.org \(http://www.change.org/\)](http://www.change.org/). Dozens of other researchers, experts, and organizations have given signatures of support including [Human Rights Watch \(http://www.hrw.org/\)](http://www.hrw.org/), [Sexuality Information and Education Council](http://www.sexworkers.org/)

[\(SIECUS\)](http://www.siecus.org/), and [Amnesty for Women](http://www.amnestyforwomen.de/index_en.html).

These letters and signatures, along with other documents including a policy brief discussing violence against sex workers, have been submitted to the State Department for review. Below are segments of this policy brief (see end of post for list of authors and collaborators).

“In November 2010, the current human rights record of the United States was reviewed by the United Nations Human Rights Council. As part of this process, members of the U.N. made a series of recommendations toward improving human rights in the U.S. In recommendation #92.86, member state Uruguay called on the Obama Administration to “undertake awareness-raising campaigns for combating stereotypes and violence against gays, lesbians, bisexuals and [transgender people], [ii] (# edn2) and ensure access to public services paying attention to the special vulnerability of [sex] workers [iii] (# edn3) to violence and human rights abuses.” [iv] (# edn4)

“This recommendation from the global community highlights human rights issues that have gone unnoticed for too long. Sex workers—that is people who engage in sexual commerce for income and subsistence needs—are members of families and communities in all parts of the United States. Because of stigma and criminalization sex workers—and those profiled as such—are subjected to violence and discrimination, and are impeded from accessing critical services, such as healthcare, and the right to equal protection under the law. State agents themselves, specifically police officers, commit physical and sexual violence against sex workers. These abuses are particularly rampant in poor and working class, urban, majority African-American and immigrant communities and also greatly affect lesbian, bisexual and transgender (LGBT) people. Globally, the U.S. federal anti-prostitution policies, such as the “anti-prostitution pledge,” have had dire consequences for international HIV/AIDS efforts.

Our policy brief discusses and critiques three policy areas in need of improvement: 1) Federal policies that conflate sex work and trafficking, 2) Federal approaches to HIV/AIDS, and 3) Criminalization (including state level laws) and Policing. Below is our language on Federal policies that conflate sex work and trafficking:

“Some current federal policies are rooted in the misconception that sex work and human trafficking (a serious human rights abuse acknowledged by the U.S. Government under the Trafficking Victims Protection Act of 2000 and subsequent re-authorizations) are the same issue. This misconception, combined with pressure from some advocates seeking to use concern about human trafficking as a way of diverting resources into anti-prostitution campaigns, has had significant impact on efforts to provide the services and support needed by sex workers both within the United States and globally.

“Globally, the U.S. imposes the Anti-prostitution Loyalty Oath or the “anti-prostitution pledge” on groups funded by the President’s Emergency Plan for AIDS Relief (PEPFAR) to provide services internationally to address HIV/AIDS. [v] (# edn5). In order to receive funds organizations must adopt a policy indicating that they oppose prostitution and “sex trafficking.” This policy runs counter to documented best practices for HIV/AIDS interventions [vi] (# edn6) and have lead some groups to avoid offering any health and safety services for sex workers. [vii] (# edn7) [viii] (# edn8) As a result, the global and public health community has been virtually unanimous in its calls for revoking the anti-prostitution pledge. [ix] (# edn9) [x] (# edn10) [xi] (# edn11) [xii] (# edn12) [xiii] (# edn13) Two lawsuits against the U.S. government were filed on behalf of three U.S.-based NGOs engaged in HIV-prevention, leading to U.S. Court Judgments concluding that the “anti-prostitution pledge” is unconstitutional on the basis of violating the first amendment right to freedom of speech. [xiv] (# edn14) The Department of Justice has appealed both cases; the second case is still in court. [xv] (# edn15)

“Federal policies that conflate sex work and trafficking also impact sex workers’ human rights domestically. Federal funding and other resources intended to protect victims of trafficking have instead been used to arrest and incarcerate adult sex workers based on state laws. For example, ongoing federal taskforces aligned with regional and municipal law enforcement agencies, such as “Operation Cross Country,” use funds that are allocated for services for trafficking

victims. [\[xvii\] \(# edn16\)](#) There is mounting evidence that anti-trafficking brothel raids of this kind place migrant sex workers and trafficked persons at greater risk of incarceration, deportation, and trauma. [\[xvii\] \(# edn17\)](#)”

After careful consultation with organizations run by and serving sex workers, as well as human rights activists and members of the State Department, we have made a number of recommendations to the US government. These recommendations, in their shortened version are the following:

The U.S. Federal Government can show progress in addressing human rights abuses against sex workers by a) accepting recommendation #92.86, and b) engaging in concrete, politically-feasible steps that can minimize human rights abuses including at a minimum:

1. Building capacity for states to address human rights violations through research and dialogue.
2. Modifying or eliminating existing federal policies that conflate sex work and human trafficking and prevent sex workers from accessing services such as healthcare, HIV prevention and support.
3. Investigating and preventing human rights abuses perpetrated by state agents, such as law enforcement officers.
4. Investigating the impact of criminalization, including state level criminal laws, on sex workers and other groups.

These recommendations, if approved and implemented, will address the needs of a population that disproportionately impacts low-income women, but will also serve a population that is extremely diverse in terms of sex, gender presentation, sexual orientation, race, class, and nation of origin. In the midst of numerous and devastating [political assaults on women’s health care in the US](http://msmagazine.com/blog/blog/2011/02/28/thousands-in-new-york-rally-against-war-on-women/) (<http://msmagazine.com/blog/blog/2011/02/28/thousands-in-new-york-rally-against-war-on-women/>), the movement for a human rights policy approach for sex workers and people engaged in sex trade work in the United States is a breath of hope. Stay tuned: the State Department is scheduled to release its response the the UPR recommendations soon.

<http://thesocietypages.org/sexuality/files/2011/03/Unknown.jpeg>



[\[i\] \(# ednref\)](#) Uruguay has already shown clear leadership in sexual rights and social justice; Uruguay was the first South American country to recognize civil unions for both same sex and different sex partners in 2007 and legalize same sex adoption in 2009; it has low levels of income inequality, and is ranked at the top of South America countries for a range of quality of life and prosperity measures. <http://en.wikipedia.org/wiki/Uruguay> (<http://en.wikipedia.org/wiki/Uruguay>)

[\[ii\] \(# ednref\)](#) The translation of member state Uruguay recommendation uses the term “transsexuals.” We have inserted the term “transgender people” which is a translation that more accurately reflects terms used in the United States.

[\[iii\] \(# ednref\)](#) The translation of member state Uruguay recommendation uses the term “sexual workers.” We have inserted the term “sex workers” which is a translation that more accurately reflects terms used in the United States.

[\[iv\] \(# ednref\)](#) Human Rights Council, United Nations General Assembly. Geneva, 1-12 November, 2010. Draft Report

of the Working Group on the Universal Periodic Review.

http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_L.9_USA.pdf

http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_L.9_USA.pdf

[v] (# ednref) Organizations within the U.S. were also subject to the pledge under Trafficking Victims Protection Reauthorization Act but recent policy changes now allows groups to say that they have no policy on prostitution and will remain neutral during the term of the grant.

[vi] (# ednref) UNAIDS. 2002. Sex Work and HIV/AIDS. UNAIDS Best Practice Collection.

http://data.unaids.org/publications/IRC-pub02/jc705-sexwork-tu_en.pdf (http://data.unaids.org/publications/IRC-pub02/jc705-sexwork-tu_en.pdf)

[vii] (# ednref) Sexual Health and Rights Program (SHARP), Open Society Institute. 2007 (June). Anti-Prostitution Pledge Materials.

http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/pledge_20070612

<https://mail.uwb.edu/exchweb/bin/redirect.asp?>

URL=http://www.soros.org/initiatives/health/focus/sharp/articles_publications/publications/pledge_20070612

[viii] (# ednref) Human Trafficking, HIV/AIDS, and the Sex Sector: Human Rights for All. (October 2010). Center for Health and Gender Equity (CHANGE) and Center for Human Rights and Humanitarian Law at American University Washington College of Law. (See P. 22).

http://www.genderhealth.org/files/uploads/change/publications/Human_Trafficking_HIVAIDS_and_the_Sex_Sector_12_3_2010_FINAL.pdf

[ix] (# ednref) In 2005, Brazil turned down 40 million dollars of USAID funds due to its ethical opposition to the “anti-prostitution” pledge. See: <http://www.thenation.com/article/just-say-nao> (<http://www.thenation.com/article/just-say-nao>)

[x] (# ednref) Middleberg, M.L. 2006. “The Anti-Prostitution Policy in the US HIV/AIDS Program.” Health and Human Rights 9, 1: 3-15.

[xi] (# ednref) Roehr, B. 2005. “Charity Challenges US ‘Anti-Prostitution’ Restriction.” BMJ 331(7514): 420.

[xii] (# ednref) Schleifer, R. 2005. “United States: Funding Restrictions Threaten Sex Workers’ Rights.” HIV/AIDS Policy Law Review 10, 2: 26-7.

[xiii] (# ednref) Center for Health and Gender Equity. 2008 (August). “Policy Brief: Implications of U.S. Policy

Restrictions for HIV Programs Aimed at Commercial Sex Workers.” [http \(http://www.google.com/url?](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)

[q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw):// ([http://www.google.com/url?](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)

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[q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)). ([http://www.google.com/url?](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)

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[q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw))org ([http://www.google.com/url?](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)

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[q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw))loyaltyoath ([http://www.google.com/url?](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw)

[q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sntz=1&usq=AFQjCNGAy_HBIgINN874Ci7ZGa-x4oMRTw))

[x4oMRTw](http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sz=1&usq=AFQjCNGAy_HBIqINN874Ci7ZGa-x4oMRTw)). (http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sz=1&usq=AFQjCNGAy_HBIqINN874Ci7ZGa-x4oMRTw) (http://www.google.com/url?q=http%3A%2F%2Fwww.genderhealth.org%2Floyaltyoath.php&sa=D&sz=1&usq=AFQjCNGAy_HBIqINN874Ci7ZGa-x4oMRTw)

[xiv] (# ednref) Bristol, N. 2006. "US Anti-Prostitution Pledge decreed "Unconstitutional." *Lancet* 1, 368 (9529): 17-8. [http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)68948-4/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)68948-4/fulltext) ([http://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(06\)68948-4/fulltext](http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(06)68948-4/fulltext))

[xv] (# ednref) For an in-depth discussion of the anti-prostitution pledge and its current legal status, see Pp. 18-26 of *Human Trafficking, HIV/AIDS, and the Sex Sector: Human Rights for All*. (October 2010). Center for Health and Gender Equity (CHANGE) and Center for Human Rights and Humanitarian Law at American University Washington College of Law.

http://www.genderhealth.org/files/uploads/change/publications/Human_Trafficking_HIVAIDS_and_the_Sex_Sector_12_3_2010_FINAL.pdf

[xvi] (# ednref) More information available at: <http://www.examiner.com/sex-trafficking-in-national/fbi-arrests-885-suspects-nationwide-child-sex-trafficking-sting-operation>

[xvii] (# ednref) See: Sex Workers Project. 2009. *Use of Raids to Fight Trafficking in Persons*." Sex Workers Project. http://www.urbanjustice.org/pdf/publications/Kicking_Down_The_Door_Exec_Sum.pdf (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.

*Policy Brief Authors and collaborators:

- Kari Lerum, Ph.D., Associate Professor, Interdisciplinary Arts & Sciences, University of Washington, Bothell
- Penelope Saunders, Ph.D., Director, Best Practices Policy Project
- Dara Barlin, Board of Directors, Sex Worker Outreach Project USA
- Stephanie Wahab, PhD., Associate Professor, Department of Social Work, Portland State University
- Jayne Swift, M.A. Cultural Studies & Doctoral Candidate

In consultation with representatives from the following organizations:

- Best Practices Policy Project
- Bay Area Sex Worker Advocacy Network
- Desiree Alliance
- Different Avenues
- Helping Individual Prostitutes Survive (HIPS)
- Sex Worker Outreach Project (SWOP)
- Sex Workers Project at the Urban Justice Center
- St. James Infirmary
- Woodhull Freedom Foundation

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