

## **Upholding Racist Heteronormativity: The Anti-Blackness of Prostitution Neo-Abolitionism in the United States**

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### **Abstract**

This article will address the present-day racist implications of anti-prostitution “modern day slavery” efforts, referred to in the literature as prostitution neo-abolitionism, specific to the United States. An intersectional feminist triangulation of U.S. sex worker rights ideology, prostitution neo-abolitionism, and racial justice abolitionism reveals how race and gender are coded implicitly and explicitly in U.S. socio-legal efforts. In the U.S., “abolitionism” is commonly understood as a racial justice movement that includes demands to abolish policing and the prison industrial complex (PIC). This ideological triangulation illuminates how prostitution neo-abolitionism in the U.S. uniquely co-opts historical anti-slavery movement language—a movement that was inherently anti-racist— to push for increased legal punishments and increased policing. This is in direct opposition to PIC abolitionists who have identified the system of mass incarceration as “the New Jim Crow” in the United States (Alexander, 2012), and who challenge racial profiling and continued police brutality against Black, Indigenous, Latinx, and Asian people, particularly those who are transgender and gender non-conforming, and those who are (profiled as) immigrants and sex workers.

### **Key Words**

Sex trafficking; sex work; prostitution; abolitionism

### **Introduction**

This article triangulates the tenets of U.S.-based prostitution neo-abolitionism with racial justice abolitionism and sex worker rights ideology in two sections: first, comparing abolitionisms, then comparing and contrasting prostitution neo-abolitionism and sex worker rights ideology. Both of

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the latter are addressing concerns about gendered violence, choice, safety, and sexual labors. However, the gendered racialization of anti-prostitution and anti-sex trafficking advocacies and policies must be identified and understood. This is particularly important as policing in the U.S. is under scrutiny for violently policing race, rather than crime. 'Alternatives to incarceration' such as mandated therapy, anger management classes, and drug rehab have been introduced within local criminal justice systems. These alternatives are billed as caring and rehabilitative options, but in reality, scholars find that they are new forms of surveillance and control undergirded by "social service-criminal justice system alliances" (Dewey & St. Germain, 2016). The threat of jail or prison time looms over anyone does not fulfill the alternative option.

This article is a theoretical exploration of the characteristics of racial justice abolitionism, prostitution neo-abolitionism, and sex worker rights ideology in the United States. I am drawing on my own experiences as a sex worker rights scholar-activist (Jackson, 2014). I volunteered with the inaugural Desiree Alliance national sex worker rights conference in 2006 and remain a supporter of the organization; I also served on the Board of the Red Umbrella Project NYC as it sunsetted. This positionality has driven my interest in understanding the socio-political evolution of anti-sex worker policies and advocacies over the past 15 years. By comparing the three advocacy ideologies, this article illuminates how prostitution neo-abolitionism misleadingly uses U.S. 'slavery language' to push for increased criminalization and policing, in fundamental opposition to the other two movements.

I posit that, in the United States, the conflation of sex work with sex trafficking as modern-day slavery is the default position into which we are socialized; to wit: workers from dentists to flight attendants are being trained to "recognize" sex trafficking. I explore this phenomenon through an intersectional feminist content analysis of distinct cultural artifacts: anti-sex trafficking rescue posters posted in two public transit areas, a national anti-sex trafficking conference website and programming, and the most recent submission from sex worker rights organizations to the United Nation's "Universal Periodic Review" of the human rights abuses of the United States.

### ***Policy Background***

In the United States, federal legislation like the *Trafficking Victims Protection Act of 2000 (TVPA)*, *Fight Online Sex Trafficking Act of 2018 (FOSTA)*, and mainstream anti-sex trafficking advocates

refer to sex trafficking and sexual labor alike as modern-day slavery. The TVPA has domestic and international reach and ramifications. Although FOSTA is not international policy per se, the Act is an example of what is known internationally as “end demand” efforts: attempts to legislate the consumer-side of sexual labors. FOSTA makes online platforms, like social media companies and advertising sites, responsible for the content shared on their platforms. As noted in an earlier writing, “The difference between FOSTA and earlier regulation of sex work is that the law targets online spaces where sex workers connect with clients. Sociologically, FOSTA is a response to a moral panic around sex and technology” (Jackson and Heineman 2018).

These efforts and policies shape U.S.-based sex workers' lives and their activism (Hoefinger et al., 2020; Jackson, 2017; Musto et al., 2021). These efforts and policies also have international reach and impact, but this article focuses domestically on their implementation and consequences in the United States. Sex worker rights activism responds to, and is shaped by, laws on prostitution, sex trafficking, zoning, loitering, and more. The U.S. criminalizes all aspects of the sale of sex and highly stigmatizes legalized forms of sexual labor, like working in erotic dance or adult film.

The U.S. also incarcerates people at incredibly high rates. Per 2019 findings from the non-profit *The Sentencing Project*, “The United States is the world’s leader in incarceration. There are 2 million people in the nation’s prisons and jails—a 500% increase over the last 40 years.” The *Prison Policy Initiative* surmised in 2020 that, “the American criminal justice system holds almost 2.3 million people in 1,833 state prisons, 110 federal prisons, 1,772 juvenile correctional facilities, 3,134 local jails, 218 immigration detention facilities, and 80 Indian Country jails as well as in military prisons, civil commitment centers, state psychiatric hospitals, and prisons in the U.S. territories” (Sawyer & Wagner, 2020). Both organizations note the disproportionate racial disparities, with Black and Indigenous people highly overrepresented.

In the world of sex worker rights organizing in the U.S., abolitionism does not have the common-day understanding of “prison abolitionism” but rather, there is a competing narrative about modern day slavery. Language is contested: abolitionism and decriminalization have different meanings within different ideological formations. Interestingly, sex worker rights efforts to decriminalize prostitution at state levels have risen sharply over the past two years, though with few successes so far (Brents and Jackson forthcoming). At the same time, prostitution neo-abolitionism continues to gain public attention, political support, and celebrity support (Majic,

2021). Anti-trafficking neo-abolitionists around the globe equate end demand with decriminalizing prostitution and are beginning to articulate their advocacy as decriminalization of prostitution. Conceptualizing what “decriminalization” means, as a legal model, can take different forms.

### ***U.S. Carceral Politics***

The evolving “feminist sex wars” in the U.S. have entered an intersectional era where race is centralized alongside gender, sexuality, and class. The feminist sex wars today consist of, on one hand, an anti-sex worker, transphobic neoliberal feminist formation in support of an expanding carceral state for the safety of women and girls. There may be critique of the state, but this approach generally holds a belief in the socio-governmental structure as infallible. On the other hand, a sex-worker inclusive, trans inclusive, anti-racist feminist formation today challenges the white supremacy undergirding the structure of the U.S. nation-state, which therefore challenges the assumption that the criminal justice system keeps people safe, particularly Black, Latinx, and other People of Color. This article attends to two areas of feminist theorizing that, taken together, reflect this formation today: the rise of carceral feminism as a specific type of state feminism, and the growing canon of racial justice abolitionist scholarship from Black, Latinx, and other feminist scholars of color.

#### *Carceral Feminism*

Studies point to the rise of “carceral” feminist ideology in the U.S., where incarceration is deployed as the main strategy to address social problems (Bernstein, 2012; B. Ritchie, 2012; Rodriguez, Ben-Moshe, & Rakes, 2020; Whalley & Hackett, 2017). The nation-state is situated as a protective institution, and businesses are situated as helpers in reporting what they see. This is a neoliberal approach where government and capitalism work hand-in-hand. This firmly entrenches U.S. power, rather than challenging it. This is highlighted in Black feminist scholar Angela Davis’s (2003) now-famous quote, “Prisons do not disappear social problems, they disappear human beings. Homelessness, unemployment, drug addiction, mental illness, and illiteracy are only a few of the problems that disappear from public view when the human beings contending with them are relegated to cages.” State feminists now embrace carceral politics as the primary answer to violence like rape, sexual assault, domestic violence, and hate crimes against LGBTQ+ people. This vein of protectionist politicking began with feminists calling upon the U.S. state for protection, emboldened by the United Nations’ “human rights” framework (Bumiller, 2008; Corrigan, 2013;

Critical Resistance, 2008; Kim, 2010; Lamble, 2013). Today's carceral feminism engenders a reliance on the criminal justice system for the protection of, and safety of, women and girls.

But not all women and girls are protected equally (Carby, 1992; A. Ritchie, 2017; B. Ritchie, 2005, 2012; Ross 1998). In Lena Palacios (2016) work on the anti-sexual violence activism and abolitionist activism of girls of color, she concluded that "in an expanding prison regime in which racially marginalized and gender non-conforming girls are still targeted for containment and sexual surveillance, it matters, urgently, who is viewed as valuable or disposable" (291). A white supremacy undergirds the U.S. justice system, federally and at state levels, going back to the violent creation of the country (Alexander, 2012). Not only is it racism, but it is also sexism that upholds this system, "in part, by policing black women's bodies via an expansive carceral regime" (Gross, 2018, 3). Further, Black LGBTQ+ youth and other youth of color, and particularly trans and gender-non-conforming youth, and youth and adults of color engaging in sexual labor, are at particular risk of police harassment and violence, and at risk of becoming systems-involved (e.g., see Kaba & Schulte, 2017 on the judicial treatment of Black teenager Cyntoia Brown's self-defense killing of a client). Even the phrasing "women and girls" is coded as cisgender women and girls, excluding trans women and girls, and excluding gender non-binary people.

One potent strain of carceral feminism is prostitution neo-abolitionism (Ward & Wylie, 2017). Prostitution neo-abolitionists argue that prostitution is "modern day slavery." In the U.S., there has been extensive research on the socio-political evolution of anti-prostitution laws and advocacy since the turn of the century, with scholars concluding that the rise in prostitution neo-abolitionism is grounded in the belief that sex work is inherently violent, that sex work and sex trafficking are more similar than different, and the answer to this violence is to abolish prostitution through increased sex trafficking laws and efforts (Chaung, 2010; Jackson, Reed, and Brents, 2017; Lerum, 1998; O'Brien, 2018; Soderlund, 2005; Weitzer, 2007, 2011). Anyone engaging in sexual labor is assumed to be someone in need of rescue and rehabilitation into non-sexualized (read: respectable) jobs (Chateauvert, 2013). The "strange bedfellows" of transphobic, anti-sex worker feminists with evangelical Christian advocacy coalesced in the 1990s (Gilmore 2010). This unique collaboration buoyed heteronormative articulations of family, safety, and gender:

Unlike in the 1970s and 1980s, these two groups, radical feminist organisations and Christian Evangelicals, now worked in tandem. Feminist

abolitionists subsumed their fight for women's equality in other arenas to support the heterosexual middle class family and a reformed moral asexuality. They did not challenge the gender norms embodied within conservative religious morality. The work of abolitionist feminist and evangelical religious groups led to the creation of the main piece of contemporary abolitionist legislation in the United States, the Trafficking Victims Protection Act (TVPA) of 2000.

(Jackson, Reed, and Brents, 2017)

Further, scholars have studied the development and passage of the *Trafficking Victims Protection Act of 2000* (TVPA) and how it has influenced over 20 years of anti-sex trafficking and prostitution policymaking, implementation, and advocacy, with domestic and international consequences. They have concluded that the TVPA is an explicitly anti-prostitution, implicitly anti-immigrant, and implicitly white supremacist piece of legislation as evidenced by the small number of T-visas issued annually (a T-visa permits a non-citizen trafficking survivor to remain in the U.S. on the condition that the survivor assist with the persecution of their traffickers), how local and federal policing now rely on nation and state trafficking funds to conduct vice raids (now called trafficking raids), the increased policing in poor Black, Latinx, and immigrant neighborhoods, and additional wide-ranging socio-legal consequences (Agustín, 2007; Berman, 2006; Bernstein, 2007, 2018; Chapkis, 2003; Chuang, 2010, 2014; Doezema, 2002, 2010; Ditmore, 2005; Lerum et al., 2012; O'Connell Davidson, 2006). The TVPA was shaped by, and continues to contribute to, the malleability and growth of a prostitution neo-abolitionist ideology, including the recent passage of the most influential "end demand" legislation since the TVPA, the *Fight Online Sex Trafficking Act of 2018* (Peterson, Robinson, & Shih, 2019).

In the U.S., "modern day slavery" narratives are used to justify law enforcement raids of sex working locations largely populated by Black, Latinx, Asian, and South Asian cisgender women, citizens, and non-citizens, and to justify non-profits and good Samaritans efforts to eradicate sex work and punish sex workers who continue to sell sex for endangering other women and girls (Ditmore, 2009; Ditmore & Thukral, 2012). This includes alliances like the academic-law enforcement efforts of Project 'Reaching Out to the Sexually Exploited' (Project ROSE), a now-shuttered collaboration between Arizona State University's School of Social Work and local Phoenix law enforcement, along with several social service agencies, to deploy sweeping arrests

of sex workers in order to identify trafficking victims and promote alternatives to incarceration (Wahab & Panichelli, 2013).

A recent study found that “system-involvement,” such as arrest or court-mandated alternatives to incarceration, has negative health impacts on sex workers and sex trafficking survivors, and people profiled as such (Hoefinger et al., 2020). The relationships between policing and social service agencies, including anti-trafficking non-profits and non-profits with an anti-trafficking initiative, constitute networked, formalized surveillance and control. Another study based on the same dataset reports that “interviews with transgender and cisgender migrants and women of color reveal that FOSTA/SESTA and the networked anti-trafficking efforts that predate it not only criminalize sex workers’ labor but also subject them to “networked moral gentrification”, which further exacerbates entrenched structural inequalities” (Musto et al., 2021).

These studies point to broader neoliberal governance trends in the U.S. toward increased surveillance and criminalization of people of color, poor people, and trans and gender non-conforming people (Musto & Boyd, 2017). Elizabeth Bernstein (2007, 2012, 2018) has studied U.S. anti-sex trafficking advocacy for years, and she highlights the irony of depending on the state for protection when it is often the most violent institution in many people's lives. The violence of prostitution neo-abolitionism, the criminalization of prostitution, and the violence of the federal U.S. anti-sex trafficking Acts and activism cannot be over-emphasised (Chapman-Schmidt, 2019; Musto et al., 2021). In this context, U.S. laws matter only in maintaining violence but not in engendering liberation. Often, only the most protectionist, carceral-affirming laws are passed that do little to alleviate the violence that people engaged in sexual labor experience.

There have been some sex worker rights wins, usually those that are situated in a neoliberal protectionist logic (Jackson, 2016; Brents & Jackson, forthcoming); others draw on racial justice abolitionism, like the New Orleans based non-profit *Women With a Vision's* successful campaign to stop arresting sex workers for “Crimes Against Nature by Solicitation,” a felony-level offence that required sex offender registry in the state of Louisiana (McTighe & Haywood, 2017).

*Racial Justice Abolitionism*

Within the world of U.S. critical scholarship and activism, “abolitionism” is well-recognized as shorthand for the racial justice-driven efforts to decriminalize identity and survival, and to end policing and imprisonment by defunding, disarming, and disbanding law enforcement, prisons, immigrant detention and deportation, sometimes referred to as “prison industrial complex (PIC) abolitionism.” This article uses these terms interchangeably, with the understanding that these efforts to end policing and mass incarceration are connected to the historical efforts of enslaved Black people to abolish slavery in the U.S. Feminist scholar-activists of color, particularly Black and Indigenous feminist scholar-activists, have theorized that the contemporary manifestation of racialized social control today is mass incarceration (Alexander, 2012, Cacho, 2012; Davis, 2003; Ross, 1998; Rodriguez, 2006). The country was founded in 1776 with slavery as a violently racialized form of social control firmly in place. Scholars have traced direct historical connections and correlations of slavery. Black feminist legal scholar Michelle Alexander’s landmark book, *The New Jim Crow* (2012), explores how subordinating Black people was, and is, the backbone of American democracy. Slavery ended in 1865 via the Thirteenth Amendment to the U.S. Constitution, only to be followed by the explosion of explicitly racialized Jim Crow laws<sup>2</sup> at state and local levels from the 1870s to the mid-1960s. The passage of the Civil Rights Act of 1964 de facto negated any Jim Crow laws on the books. The current form of racialized social control, mass incarceration, exemplifies how racism remains embedded in U.S. government policy and practices. For Black, Indigenous, and other people of color (BIPOC), the U.S. nation-state is identified as the source of violence, not a source of protection from violence.

Many scholars, themselves BIPOC, have studied how BIPOC women, youth, and trans and queer identified people are creating and implementing explicitly anti-racist, community-supportive approaches to accountability and justice because they cannot rely on the state for protection (Kim, 2018, Palacios, 2016). Decriminalization is a racial justice response and gender justice response to violence against sex workers. Further, from drugs to sex, almost all major international rights organizations agree that decriminalization is the first step, and a very necessary step, to safety, wellbeing, autonomy, and breaking stigma. In the 2010s, organizations

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<sup>2</sup> In the U.S., we colloquially refer to the explicitly anti-Black laws of the mid-20<sup>th</sup> century as “Jim Crow laws.” Jim Crow refers to a group of many local and state laws that, together, relegated Black people to second class citizenry, e.g., not renting to Black people, not allowing Black people into public spaces, outlawing Black people kissing in public or offering to light the cigarette of white person, particularly a Black man offering such for a white woman. Legal scholar Michelle Alexander (2012) analyses of racial caste systems in the U.S. today illustrates how racism has not ended, but changed shape over time, from slavery to Jim Crow to mass incarceration.



like Amnesty International and the World Health Organization began to publicly support the decriminalization of sexual labor, as have United Nations programs such as the U.N. Population Fund and UNAIDS (Amnesty International 2016; UNAIDS 2009, 2014; see also Grant 2020), though UN Women has not come out with a formal stance on the issue. In sum, intersectional feminist and critical race scholarship theorizes the ways in which prostitution neo-abolitionist policies and practices misconstrue the emancipatory possibilities of the criminal justice system or simply disregard how the criminal justice system is a form of racialized social control.

Racial justice scholarship also addresses the performativity and “fake” allyship of white people who talk the talk, but do not engage in any actions to subvert the socio-legal status quo by “transferring power” (Ahmed, 2007; Levine-Rasky & Ghaffar-Siddiqui, 2020). In reference to higher education, feminist scholar Sara Ahmed (2006) refers to this as “the nonperformativity of antiracism” efforts that are named Diversity, Inclusion, and Equity but do little to actual engender structural or institutional changes. This is also what white scholar Jessie Daniels (2015) calls “the trouble with white feminism” in reference to social media activism.

## **Methods**

I am using intersectional feminist content analysis of cultural artifacts that represent strong, though sometimes banal, moments in anti-sex trafficking advocacy and policy impacts. In engaging a comparative content analysis of cultural artifacts, the aim is to render visible where structural sexism & racism lay. These cultural artifacts are:

- two examples of modern-day slavery outreach messaging in public transit areas,
- the national anti-sex trafficking conference website and programming, and
- the most recent submission from U.S. sex worker rights organizations to the *United Nation's Universal Periodic Review* of human rights abuses in the United States, submitted in 2019 for the 2020 review.

I coded these cultural artifacts for stated goals and implicit ideologies, explicit phrases and language, and victim and survivor narratives, with a focus on race, gender, gender expression, sex itself, and sexuality. I identified key characteristics of prostitution abolitionism, prison abolitionism, and sex worker rights ideology: choice, danger, the role of the state, the role of the criminal justice system, the role of social services, and the role of individuals.

*Data*

Often using funding from the TVPA or state anti-trafficking funds, localities have undertaken educational outreach campaigns to encourage people to report suspected sex trafficking and to reach out if they themselves are being trafficked. This is usually a result of social service-criminal justice taskforce efforts, again, often funded by the TVPA. Almost every large city in the United States has been identified as a sex trafficking hub: if the city has an international airport or shipping ports, or lies on major trucking routes, or has a major sports arena or stadium, it is included (see the Polaris Project's *2019 Data Report*). Interestingly, borders themselves were originally an important marker of trafficking: first national borders, aligning with the United Nations trafficking protocols, but in the U.S., it then narrowed to state borders, even county (local level) borders, to now when movement itself is not a characteristic of trafficking.

*Artifact 1: Sticker in the McCarran International Airport Women's Bathrooms*

At McCarran International Airport in Las Vegas, Nevada, the women's bathrooms (already setting a gendered expectation) displayed these signs in each stall, on the door so one will see it while sitting on the toilet. In less than a year, the signs were updated:



*Image 1: Author's photo of a sticker on the back of a bathroom stall door in McCarran International Airport, Las Vegas, Nevada, January 2019*



*Image 2: Author's photo of a sticker on the back of a bathroom stall door in McCarran International Airport, Las Vegas, Nevada, July 2019.*

The updated sticker used the same picture from early 2019: a picture of someone we are to assume is a cisgender woman, sitting in a corner of a room fully clothed but perhaps without shoes, her face between her knees and her arms wrapped around her face. We cannot see her face. She has long dark hair in a ponytail. A headless body of someone we are to assume is a cisgender man has his wallet in his hands, and he is either putting several bills into his wallet or taking them out of his wallet.

The text of the sticker reads “GET HELP” in large capital letters across the top, followed by lower case text that reads: “if you are a victim of human trafficking, call this number.” A phone number and a text line are provided. The outreach poster was updated sometime between January and July of 2019 to include the text help number in three additional languages besides

English, Spanish, Filipino, and Chinese, with the national flags of Mexico, of the Philippines, and of China featured next to the heading for each translation.

The website for the Trafficking Resource Center (TRC), formerly referred to as the Polaris project, is also featured. The TRC is a non-profit organization that operates a federal trafficking hotline, the only one that exists; the information it collects is what the federal government often refers to for national-level and state-level data (see the 2020 “Trafficking in Persons Report: United States”).

*Artifact 2: Poster in the New Jersey Rapid Transit Train Stop Connecting to Manhattan*

Across the country in the New York City-New Jersey Metro Area is another example of this type of outreach with an additional motivation: an invitation to people to rescue others.



*Image 3: Author's photo of a poster in a Jersey City, NJ PATH Station, taken April 2021.*

This poster is featured along on a wall that passengers pass exiting and entering the train station. It is also found on trains themselves as part of a series of anti-trafficking posters. The background is a blue-tinted picture of someone we are to assume is an Asian woman with both hands in front of her, palms out, fingers spread, not smiling or talking, looking out from behind the text that overlays her. It is a defensive posture. Her hand has a barcode tattooed on it (though it appears to be an image overlay and not an actual tattoo). Her face is tear stained.

Text is pasted over top of the image. It reads “STOP HUMAN TRAFFICKING” in large, white, capital letters, and offers a Myth and a Fact, alongside information to report: “If you believe you are a victim or suspect someone might be a victim of human trafficking, call the Port Authority Police,” followed by the phone number. The “Myth” reads: “Human trafficking victims will seek help when in public.” The “Fact” reads: “Human trafficking is a hidden crime. They may be threatened with violence or may fear retribution to them or their families.” The logos of the Port Authority NY-NJ enforcement and police appear along the bottom, along with a QR code to scan to “know the signs of Human Trafficking.”

*Artifact 3: The Annual International Human Trafficking & Social Justice Conference Website*

The “Toledo Conference” - as the annual International Human Trafficking & Social Justice Conference in Toledo, Ohio is colloquially referred to - is arguably the most influential anti-sex trafficking and anti-prostitution academic-activist conference in the United States. It began in 2004, after the first federal re-authorization of the TVPA in 2003. Despite the conference organizers’ removal of ‘sex’ from its materials a few years ago, a quick review of conference programming shows that it is very much focused on sex trafficking. It is important to note here that the *International Labour Organization* reports that people are trafficking into domestic labor, agricultural labor, and construction in much larger numbers than into sex trafficking (ILO 2017).

Further, since 2013, the Toledo Conference has hosted a one-day workshop for high school students to learn how to “fight for freedom.” The workshop is seemingly about “trafficking” writ large: “sex” is nowhere in the outreach materials or website. But a view of their “3rd Annual High School Poetry Slam & Art Competition Promo Video” on YouTube shows students conflating sex assault and kidnapping with sex trafficking. The students are sharing their fears of rape using the language of trafficking.

*Artifact 4: 2019 Submission to the United Nations 36th Session of the Working Group on the Universal Periodic Review, Human Rights Council*

“A coalition of sex worker rights NGOs” (non-governmental organizations) submitted a paper titled “Human Rights Violations of Sex Workers, People in the Sex Trades, and People Profiled as Such” to the most recent United Nations *Universal Periodic Review of the United States* (UPR). It was submitted in 2019 for the 2020 review. The coalition was made up of five U.S. based organizations: Best Practices Policy Project, the Outlaw Project, the Black Sex Workers Collective, the New Jersey Red Umbrella Alliance, and the Desiree Alliance.

The UPR is held every five years. U.S. sex workers rights organizations have submitted a document for the 2010, 2015, and 2020 UPR cycles. The most recent one has 29 points of data summary and 19 specific recommendations, laid out over 13 single-spaced pages. They are organized into nine sections: “Background and Context”; “Legal and Institutional Framework”; “Right to Freedom of Assembly and Freedom of Association”; “Right to Equal Protection Under the Law” (the longest section); “Freedom from Torture, Other Cruel, Inhuman, and Degrading Treatment”; “Right to Adequate Health Care”; “Right to Family Life”; “Economic Rights and the Right to Work”; and “Recommendations.”

There are seven points listed under “Right to Equal Protection under the Law,” beginning with #7. Particularly salient to this analysis are certain key points:

7. Law enforcement **disproportionately hyper-police sex workers of color** in the United States for arrest because of profiling minority status. People of color from the lowest income communities who do sex work in public spaces to meet their needs are relentlessly and disproportionately targeted by the police. Statutes and policies mandating the “banishment” of people from certain areas or eroding the reasonable suspicion standard for arrest and conviction violate due process rights. Law enforcement officials routinely invoke such concepts to threaten people they profile as sex workers, **subjecting them to degrading and violent treatment such as removal of wigs or clothing, confiscation or destruction of property, and verbal abuse including homophobic, anti-transgender, and racist slurs and sexual harassment.**

(Submission, 3, bold emphasis added by author)

Additional points in this sub-section paint an intersectional picture of how the U.S. actively engages in violently racist, transphobic, anti-immigrant, trans-misogynist, and sexist efforts that impact sex workers and people assumed to be sex workers. For example, “The legal establishment does not conceive that those who work in sexual-based economies can be sexually assaulted and routinely obstructs sex workers’ attempts to seek justice for crimes committed against them” (5). The submission notes that there is not only a lack of rights for transgender people in the U.S., but a “sustained campaign to roll back the rights of transgender people” (4). Human rights violations against immigrants “intersect...with anti-prostitution and rights violating anti-trafficking policies [that] has resulted in the death of migrant sex workers at the hands of state agents, the incarceration of migrant sex workers in rights violating detention centers, and deportation”, and goes on to say that “anti-immigration policies in the U.S. **traumatizes** trafficked persons and sex workers” (4, emphasis added).

The section on “torture, other cruel, inhuman and degrading treatment” of sex workers at the hands of the state makes several key points, but all share a theme: it is not clients, not community members of their family members, but the state itself that most sex workers are afraid of and do experience violence by:

14. U.S. sex workers’ greatest fear is **abuse by law enforcement and other state agents**.

15. **State agents attack and kill** sex workers and those profiled as such with impunity.

16. Jails and prisons in the U.S. have been recognized as rights violating in previous UPRs.

(Submission, 6)

Additional sections go on to address how sex workers are excluded from or are afraid to access basic health care. The submission includes examples, from police who “belittled and blamed” sex workers for injuries they sustained, to how certain U.S. policies effectively weaponize condoms and impact basic public health outreach efforts, to how “U.S. anti-trafficking policies undermine the health and rights of sex workers internationally by requiring organizations seeking funding

adopt a policy against sex work (PEPFAR)” (8). PEPFAR stands for the U.S. President’s Emergency Plan for AIDS Relief.

The 19 “Recommendations” at the end of the submission ask that the U.N. UPR hold the U.S. accountable. For example, points 32, 33, 35, 36, 37, 43, 46, and 47 all address the need to repeal a complicated web of policies, laws, and practices that criminalize the sale of sex, including FOSTA, and laws impacting people with convictions (e.g., no public assistance or public housing). Additional points show how intersectional sex worker justice is:

- 30. End and address the atrocities of current immigrant and migration policies
- 31. To ensure Transgender people [are] offered the full protection of the law and rights violators should be held accountable
- 42. Create policies that prevent accusations of “endangerment in prostitution” from being used to remove children from parents by Child Protective Services and in custody claims
- 44. End the use of money for bail.

(Submission, 10-11)

They further recommend steps to address how sex work and sex trafficking are conflated, and the harms that the conflation causes for everyone:

- 45. Eliminate requirements for mandatory collaboration with law enforcement as a pre-requisite for survivors of human trafficking that includes immigration relief or services,
- 46. Repeal laws and eliminate federal policies that conflate sex work and human trafficking preventing sex workers from accessing social and economic services, and repeal and remove ‘anti-trafficking prostitution pledge’ requirements for U.S. global AIDS funds and anti-trafficking funds.

(Submission, 11)

This submission, and the ones that came before it, draw on sex workers’ own community-based research efforts. Further, they cite specific policies and governmental tactics to explain why the U.N. should address U.S. human rights abuses against sex workers and people assumed to



be sex workers. An article published in the *Anti-Trafficking Review* studied the 2010 submission process and effort, including face-to-face meetings with political officials (Lerum et al., 2012). The authors noted three particularly challenging issues that sex workers faced in “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” (Lerum et al., 2012, 96). First, advocates had to “clearly define the difference between human trafficking and sex work to policy makers” to “illuminate for officials why it is a problem at that U.S. policies against sex work and human trafficking mistakenly stem from the same logic” (Lerum et al., 2012, 96). Second, the way that federal authority and state rights interact means that sweeping changes are difficult to implement. And third, “advocates needed to underscore the negative impact that trafficking measures have on human rights in the U.S. 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” (Lerum et al., 2012, 97). In the 2019 submission reviewed here, the authors are balancing how to evoke the nation-state to action while also holding it accountable as a major source of violence: this is a savvy activist tactic that sex worker rights activists have honed for decades.

### ***Analysis***

From these cultural artifacts, three themes emerged that indicate cracks in the modern-day slavery narrative: the voices of sex workers themselves; evidence of colorblind racism; and evidence of heteronormative ideology. First, what do sex workers own voices tell us? The momentous occasion of the first ever submission by sex worker rights organizations in 2010 to the U.N. UPR marked a new era of sex worker rights savvy: if the U.S. will not listen to them, they went to the next higher institution of authority, the United Nations (Lerum et al. 2012). This study presents their third iteration alongside cultural artifacts that embody what they are fighting against.

#### *The Voices of Sex Workers*

The 2020 submission to the UPR review of the U.S. clearly indicates the racist, sexist, transphobic, family-splitting, anti-immigrant torments that sex workers, and people assumed to be sex workers, experience at the hands of the state. Many, particularly Black transgender and cisgender sex workers, experience consistent harassment, and physical and sexual assault at the hands of the state. Even the fear of arrest is violence itself, because arrest can lead to removal

of children from your home or being forced to register on a sex offender register. For example, activists successfully fought to remove the policy that forced women found guilty of prostitution in the state of Louisiana to register on the state's sex offender register. The register is usually reserved for people who rape and sexually abuse others; it negates a registrant's ability to live near, for example, places of worship or K-12 public schools, work with children, or maintain custody of their own children. However, the practice itself is ingrained in policing culture and things have been slow to change in Louisiana (McTighe & Haywood, 2017).

Sex workers want a rights-based approach to their safety, not a law enforcement approach to their safety. Yet analyzing the prostitution neo-abolitionism artifacts show the exact opposite: they position police as safe to approach and as arbiters of safety; they conflate sex work and sex trafficking as one and the same; they proffer a specific public imaginary of what sexual labor is like: always violent, always in need of rescue by the state or a good citizen.

For many sex worker rights organizations, the pushes for decriminalization align with prison abolition efforts. Indeed, some sex worker rights activists come from a background in prison abolition work or engage in prison abolition work as well, like SWOP's Behind Bars initiative that provides direct support for currently and formerly incarcerated sex workers. Sex workers demand the decriminalization of all sexual labor as a starting point toward equity and equality. Sex worker rights activism itself is a form of labor that sex worker rights organizers engage in for survival.

Yet, the New Jersey poster is very clear in asking the general public to get involved. This puts individuals in the position of rescuer, which of course can make someone feel good: you want to help! But putting the general public on alert to identify others in need of rescue is dangerous. First, it means that, if police do follow up on the tip, that person is now at risk of arrest, violence at the hands of the state including police, and the violence that come with being "systems involved" in the U.S. criminal justice system at local and national levels. Further, there is some evidence that the people who good citizens report to police as victims of trafficking have been either sex workers or simply women whose (assumed) racial and class identities do not fit with a certain socio-geographic area, or, they were white or light-skinned women or girls traveling with a man of color (Burkhalter, 2012), sometimes their father.

*The Colorblind Racism of Anti-Sex Trafficking Public Educational Outreach*

In the 21<sup>st</sup> century, the popularity of a prostitution neo-abolitionist framework is not surprising. It is emblematic of how racism often operates today: what Latinx sociologist Eduardo Bonilla-Silva (2017) terms a “colorblind racism.” It is a racism maintained by obscuring racial inequalities in our society. It is a racism emboldened by seemingly race-neutral speech and laws that, in invisibilizing racism, makes it difficult to “call out” or “call in” people, organizations, and institutions that are upholding white supremacy. This is evident in the work of black feminist legal scholar Michelle Alexander (2012), who concludes that mass incarceration today is “the New Jim Crow” in the United States - nowhere is race mentioned in criminal code but, in practice, race, gender expression, sexuality, and assumptions of immigration status become criminalized aspects of identity. Mass incarceration is the most recent federal incarnation of violently racialized social control, a criminal justice system that racial justice abolitionists want to defund, disassemble, and disarm.

The two anti-trafficking artifacts embody a specific anti-Black colorblind racism that is at the root of racial justice abolitionist demands. The two images are racialized - but not black - cisgender women. Why? Because U.S. society was built on institutionalized racism specifically against enslaved Black people. If those posters featured Black women, they may not illicit the same sense of empathy and desire to help in our anti-Black racist country. This is very telling considering that prostitution neo-abolitionists view themselves as the modern-day abolitionists fighting against modern-day slavery. Modern day slavery narratives rely heavily on racist and transphobic norms: women and girls need protection, but not black women and girls, and they mean cisgender women and girls, not trans women and girls, or femmes, or non-binary people.

Anti-sex trafficking and anti-prostitution advocates and organizations taking on the moniker of “abolitionism” is a racist co-optation of a very real historical moment and ignores contemporary racial justice abolitionist calls to abolish systems. This too is a powerful example of colorblind racism. The “abolish modern day slavery” movement is, in effort and practice, part of the New Jim Crow.

Part of mass incarceration is calling on the general public to do their part, engendering citizens as surveillance and self-appointed vigilantes of the law. This resonates with the ideals of “American exceptionalism” that guide what patriotism means in the U.S. It is asking the public to

act as an informal arm of policing. But the public has no training on identifying victims of trafficking or understanding the differences between a dangerous situation and a criminalized one. Therefore, anti-trafficking efforts like these are a form of surveillance and control of people of color.

Promoting citizen surveillance reifies the powerlessness of women of color—she cannot even escape the text that is written over her body, as seen in the second artifact. The “white savior complex,” itself a manifestation of American exceptionalism, maintains systems of power rather than challenging them. This then becomes a cruelly effective way of denying sex workers’ own voices and denying their rights to safety, health, stability, family, and well-being.

### *The Heteronormativity of Anti-Sex Trafficking Public Educational Outreach*

One reason that the mythology of modern-day slavery is so pervasive is because the narrative fits in our heteronormative society. Nowhere do the two outreach posters use the words “sex trafficking” or “prostitution” or “rape.” But the messaging is clear: human trafficking means sex trafficking. Prostitution - is he paying her or is he taking his cut as her pimp? - is trafficking. In the Las Vegas messaging, she’s hurt, in the corner, hiding her body from him. In the New Jersey messaging, she is literally commodified with a barcode tattooed on her hand, like an item in a store. The conflation of trafficking and rape therefore indirectly defines sex work as rape, given the conflation of trafficking and sex work.

Further, the outreach reifies the notion that only cisgender women are victims. Because we live in a society that normalizes a gender binary - which is part of how heteronormativity works - trans and gender non-binary people are erased from concerns about trafficking. Living in a brutality transphobic society means that messaging should clearly indicate they care about transgender and gender non-binary people too. Further, cisgender men are not easily believed to be victims because that too does not fit with our sense of victimization as weakness, as helpless - this is at odds with patriarchal masculinity.

Finally, it is important to note that trafficking does occur regularly in other labor areas, like construction, back-of-house operations in hotels and restaurants, domestic work, and agriculture. Yet those victims/survivors often go uncared for or unseen because they do not fit with heteronormative ideals of sex, victimhood, and helplessness. Few outreach campaigns exist for

them, because their issues are seemingly non-sex/non-sexual, even though many domestic workers and farm workers report sexual assault and fears of deportation for reporting sexual assault.

Not only are anti-trafficking efforts conflating sex work and sex trafficking, but it is also conflating rape and sex trafficking. This is very evident with the 2019 Toledo Conference: the high school students programming in particular upholds this conflation so that students talking about sexual assault are using the language of trafficking.

These calls to abolish trafficking and prostitution endanger communities of color, particularly black youth and black LGBTQ+ people because increased policing in the name of trafficking means increased presence of police and a new justification for police and social service interventions. Black Lives Matter abolitionists do not align with prostitution neo-abolitionists. These dueling ideologies can tell us much about the role of the state. One way to discern the differences in *how* words are used is to explore how these dueling ideologies position the state. Below is a chart (*Chart 1*) summarizing these two particular activist ideologies on seven key points: policy approach, who is identified as the enslaver, who is being emancipated, the role of the U.S. nation-state, the type of social critique, positionality on technology, placement within the feminist sex wars, and U.S. historical connections.

### A Comparison of Ideologies

	<b>racial justice abolitionism</b>	<b>prostitution neo-abolitionism</b>
<b>policy approach</b>	defund and dismantle policing, prisons, & immigrant detention/deportation centers; in the meantime, disarm and decarcerate; re-direct funds and efforts to community-driven accountability efforts, health, and education	Criminalize more, re/criminalize actions (e.g., kidnapping is now trafficking)
<b>who is doing the enslavement?</b>	Nation-state and states via the criminal justice system	Individual criminals & individual criminal enterprises (organized crime)
<b>emancipating whom?</b>	Emancipate the incarcerated, save BIPOC from violence at the hand of the state	Emancipate individual women and girls from violent people
<b>role of the U.S. nation-state</b>	Nation-state is source of violence, not protection. Mass incarceration does not keep people safe.	Rely on nation-state for social control. Today's slavery (trafficking) is not caused by the nation-state; responsibility of the nation-state to end it.
<b>type of social critique</b>	Intersectional feminist critiques, racial justice abolitionism, #BlackLivesMatter	Liberal feminist critique: arguing state does not do enough to protect women and girls from sex trafficking. Carceral feminism calls upon the state for protection.
<b>technology</b>	Wary of techno-surveillance	Wary of technological advancements as arbiters of trafficking
<b>US historical connections?</b>	U.S. sanctioned racialized social control: slavery	Trafficking is the new form of slavery in a capitalist system;

	(exploitation) to Jim Crow era (subordination) to mass incarceration (marginalization) (Alexander 2012)	trafficking has always been about race (Cheryl Nelson Butler) Lack of legal protections for women
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*Chart 1: A comparison of ideologies: racial justice abolitionism and prostitution neo-abolitionism*

A further comparison of sex worker rights ideology and racial justice abolitionism show that they align closely (see *Chart 2*), whereas prostitution neo-abolitionism stands alone. These dueling abolitionisms are drawing on very powerful imagery, but one does so in an ahistorical way that co-opts the histories/herstories/theirstories of Black, Indigenous, and other people of color by calling out the state itself as violent and uncaring.

### **A Comparison of Ideologies**

	<b>racial justice abolitionism</b>	<b>sex worker rights ideology</b>
<b>policy approach</b>	defund and dismantle policing, prisons, & immigrant detention/deportation centers; in the mean-time, disarm and decarcerate; re-direct funds and efforts to community-driven accountability efforts, health, and education	decriminalize the sale of sex, abolish imprisonment, stop raiding sex working establishments in the name of trafficking, end stigma against legal and criminalized forms of sexual labor
<b>who is doing the enslavement?</b>	Nation-state and states via the criminal justice system	Nation-state and states via laws criminalizing the sale of sex, and the criminal justice system itself
<b>emancipating whom?</b>	Emancipate the incarcerated, save BIPOC from violence at the hand of the state	Emancipate sex workers & those profiled as such, incarcerated and systems-involved, from nation-state violence

<b>role of the U.S. nation-state</b>	Nation-state is source of violence, not protection. Mass incarceration does not keep people safe.	Critical of arrests, raids, mass incarceration; see prisons and policing as sexist, transphobic, racist, classist forms of violence
<b>type of social critique</b>	Intersectional feminist critiques, racial justice abolitionism #BlackLivesMatter	Intersectional, sex-worker inclusive feminist critiques: labor rights paradigm; anti-capitalism; sex itself is not inherently dangerous but sexism is #SexWorkerRightsAreHumanRights
<b>technology</b>	Wary of techno-surveillance	Wary of techno-surveillance
<b>US historical connections?</b>	U.S. sanctioned racialized social control: slavery (exploitation) to Jim Crow era (subordination) to mass incarceration (marginalization) (Alexander 2012)	"slavery" fears at the turn of the last two centuries are moral panics that harm sex working people (especially immigrants and sex workers of color)

Chart 2: A comparison of ideologies: racial justice abolitionism and sex worker rights ideology

### Conclusion

This article analyzes competing ideologies of justice in the U.S., a settler colonial state founded on racial subordination, racialized violence, and sexism. To be clear, the topics of sex worker rights and prostitution neo-abolitionism are contentious within feminist academic and activist circles. Anti-prostitution neo-abolitionism's assertion that sex trafficking is modern day slavery is a form of carceral feminism. This article has shown how prostitution neo-abolitionists and carceral feminists are not anti-racist, and more than that, they are adept at capitalizing on people's colorblind racism and heteronormativity. The "modern day slavery" narrative is upholding "the new Jim Crow" (Alexander, 2012) through an anti-black racist heteronormativity. This article has laid



bare how racism is imbedded in the feminist sex wars, though more historical research needs to be conducted to trace this history/herstory/theirstory.

Feminist scholarship centers lived experience as theory. The sex workers I have engaged with as a scholar-activist experience brutal policing, violent stigma, and the multifaceted consequences of sexist, racist, transphobic, and heterosexist laws. If feminist scholarship is aimed at identifying paths toward equity and equality for all, that means decriminalizing sexual labor, defunding criminal justice systems, and decarcerating prisons. Decriminalization of sexual labor - the removal of all criminal code, for all aspects of the labor - is the recommendation of the World Health Organization, several U.N. bodies, and Amnesty International (Amnesty International 2016; UNAIDS 2009, 2014; see also Grant 2020). The strategic narrowly defined use of “decriminalization” by prostitution neo-abolitionists is obstructing sex worker rights efforts and anti-racist abolitionist efforts. Decriminalization is a key strategic tool of abolitionists: but how they operationalize that concept depends on their ideological framework.

Anecdotally, a rising anti-prostitution feminist social media derides decriminalizing sexual labor as a non-radical, mainstream, liberal feminist effort to maintain capitalist oppression. Yet some sex workers situate their activism as anti-capitalist. They know that working is a tool of oppression. But in a capitalist society, work is a requirement for access to stability. These dismissive social media efforts reflect an awareness that decriminalization is not the end goal but lack an awareness of the visionary future that anti-racist abolitionists and sex worker rights activists present: a future in which policing and mass incarceration do not exist; a future where those funds are re-routed to community-led conflict resolution services, mental health services, anti-poverty programs, and educational opportunities. More research is needed on proliferation of “modern day slavery” narratives in social media, including memes.

Additional questions outside the scope of this project include: Are there blurry lines between regulatory frameworks? What will it take for decriminalization of sexual labor to succeed in the U.S.? How does this uniquely American understanding of “abolitionism” as racial justice abolitionism compare with other countries sex worker rights efforts? What roles will places of worship play in the clash of abolitionisms? Are pushes for decriminalization part of a reform agenda or a racial justice abolitionist agenda? Are narratives around “end demand” becoming equated with decriminalizing prostitution? Who will decriminalization leave behind in the U.S.? In Aotearoa/New Zealand, where decriminalization has been very successfully for supporting the

rights and well-being of of-age citizen sex workers, youth under the age of 18 and undocumented immigrants are still marginalized and criminalized under anti-trafficking policies (Armstrong, 2017; Armstrong & Abel, 2020).

Further, if prostitution abolitionism continues to successfully advocate for End Demand policies, could decriminalization be the new gay marriage? Will sex worker rights activism splinter based on racist respectability politics that streams more privileged workers (white workers, middle class workers, cisgender workers) one way while more radical organizers and organizations continue to center racial justice and trans justice? Will dueling efforts emerge along the lines of reform v. abolition?

In comparing U.S. racial justice abolitionism, prostitution neo-abolitionism, and sex worker rights ideology, this article encourages further research and dialogue on anti-carceral interventions, mutual aid efforts, and discursive efforts to clarify or possibly reclaim “abolitionism” and “decriminalization.” When viewed in an historical light, the interconnections of racial justice abolitionism and sex worker rights is clear: both articulate policy demands to defund criminal justice institutions and direct that funding to education, health care access, and community-based, community-led services around safety and care. Both articulate the U.S. nation-state as a source of violence, not protection. Both engage in intersectional analyses of state power to hold federal, state, and local governments accountable for the violence in their communities.

Prostitution neo-abolitionism in the U.S. does not signal a revolution in sexual politics. Instead, it signals collusion with carceral feminist projects. Carceral feminist projects are neo-liberal critiques of the failure of the nation-state for not doing enough to protect women and girls from organized crime, individual criminals, and violent people. In this sense, “modern day slavery” (sex trafficking) is not caused by U.S. policy or practice, but rather, the country has a responsibility to end it. This patriotic ethos is so efficacious because it promotes policy reform, not structural upheaval. Prostitution neo-abolitionism will likely continue to grow in influence in the U.S. and around the world precisely because it is emotive but not revolutionary.

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