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EDITORIAL

RACIAL JUSTICE AND DECRIMINALIZATION OF PROSTITUTION: NO PROTECTION FOR WOMEN OF COLOR

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Increasingly, social justice and human rights groups, as well as some politicians in the United States, are touting decriminalization of prostitution as a racial justice issue, exploiting the current climate of criminal justice reform to push this policy.

Rep. Ayanna Pressley (MA-07), who formerly supported anti-demand programs, has done an about face and tucked decriminalization of not only prostituted women but also of pimps and sex buyers, into her hefty criminal justice reform package. Entitled *The Peoples Justice Guarantee* (H.Res.702), the federal bill calls for “decriminalizing sex work by removing criminal and civil penalties related to consensual sex work...” (Tiernan, 2019).

Pressley’s plan has been criticized by Massachusetts prostitution survivors and the progressive mayor of Boston, Marty Walsh, who called it a “dangerous proposal that creates an open market for vulnerable people’s bodies and allows the people who are soliciting sex to get off scot-free” (Tiernan, 2019) Nikki Bell, the director of Living in Freedom Together (LIFT) a prostitution-survivor organization, has responded, “Decriminalization says they [women in prostitution] are not worth anything else, so let them survive off of prostitution — we have to do better as a community” (Tiernan, 2019).

Prostitution is no way out of poverty. By supporting legislation that defends the rights of pimps and sex buyers by releasing them from any legal accountability, Pressley’s bill appears to defend the “right” to be exploited in the sex industry and, for many women, to remain mired in systems of prostitution.

In the name of criminal justice reform, Pressley’s bill abandons women to pimps and sex buyers and closes its eyes to women’s exploitation. As has happened in countries that have legalized and decriminalized prostitution, her bill will create more victims.

Decriminalizing prostitution is nothing new. It is, in fact, the legal status quo, and the conservative course that laws have followed in *not* addressing the men who move anonymously and with ease soliciting women on the streets, in brothels and

sex clubs, and who are seldom seen as perpetrators destroying women's lives. This legal "hands off" policy has allowed governments to abandon victims to pimps and so-called customers.

A study entitled *Prostituted Youth* (Gragg, 2007) found that 50 percent of all streetwalking prostituted minors in New York City were Black, while another 25 percent were Latino. A similar study found that up to 67 percent of those in prostitution in New York were Black youths, and another 20 percent of youths were Latino. Since African Americans make up a 26 percent of the population in New York City, these numbers are extremely disproportionate.

U.S. pro-sex work activists are using such numbers to exploit criminal justice reform and racial justice efforts — efforts aimed at counteracting police abuse and killings of African Americans. Certain organizations have mounted such campaigns as wedges to promote decriminalization of prostitution.

Decriminalization proposals conflate "sex workers" with "sex work," and this sleight of hand is often not noticed. For example, an American Civil Liberties Union (ACLU) article states, "Protecting sex workers is just one of the reasons we need to decriminalize *sex work*. Decriminalization would reduce police violence against sex workers" (Holston-Zanelli, 2020).

A more honest proposal would acknowledge that protecting prostituted women is one of the reasons we need to decriminalize the women but not the sex buyers and pimps that exploit them.

Jasmine Sankofa, writing as Amnesty International's USA advocate for sexual and reproductive rights, headlined her article "Sex Work Decriminalization is a Racial Justice Issue" (Sankofa, 2016). She offers this advice: "Instead of punishing and shaming *survival strategies*, we should be invested in expanding choices. Sex work decriminalization is a racial justice issue...we need to check ourselves — by silencing our judgment, listening to their voices, holding space for their healing, supporting them on their own terms, recognizing their agency, *respecting their choices*, and challenging structural oppression on all fronts."

In this rhetoric of "respecting choices," where is the option of exiting prostitution? Sankofa's proposed "expansion of choices" does not include helping victims out of prostitution. It helps to keep them in prostitution.

I spoke with Vednita Carter, the founder of Breaking Free in Minneapolis-St. Paul, established as an Afro-centric organization of "sisters helping sisters break free" of prostitution. She said: "It is mostly Black and Brown women of color who are targeted by pimps and buyers all over the country. Service providers have noted the increase during the pandemic, as victims turn to programs that assist them. Decriminalization lets these men off the hook. If a pimp is buying and selling women, it doesn't matter what his color is. He has to face the consequences of his actions."

It's insulting to victims that purported progressive organizations cannot envision a foreseeable future for women outside the sex industry and offer no real solutions that help provide for such a future. The most important "survival strategy" — developing a program to aid those who want to get out of one of the most violent industries ever — is never mentioned. What Amnesty is offering are so-called survival strategies not worthy of the name.

Black Lives Matter D.C. supported a decriminalization of prostitution bill that had its first hearing in the D.C. City Council in June, 2019. The organization teamed up with the DECRIMNOW (2020), the group that launched the bill whose policy is: “We are a collective of sex workers, organizers, and allies in the DC metro area who believe that sex work is work and are fighting for the agency and freedom of sex workers. We are fighting for a bill that would remove criminal penalties from the selling and buying of sex in DC.”

Proponents of the bill argued that “Policing and criminalization of sex work is one of the primary sites of racial profiling, police violence, and mass incarceration of Black and brown women, girls... The decriminalization of sex work is one step in ending this violence”(DECRIMNOW, 2020)

Carter challenges this policy. “Is this what the Black Lives Matter movement thinks about Black women — that that’s who we are. That we are just worth selling our bodies...To me, what the decriminalization people are saying is it’s OK for women to be treated in this way.”

Rachel Lloyd, a survivor of the sex trade and founder and director of Girls Education & Mentoring Services (GEMS) in New York has another vision of “respecting choices” through empowering young women and girls exploited in the sex trade. Lloyd states that the majority of those she works with are disproportionately low-income girls of color, and children who had been arrested and charged with prostitution, who feel like prostitution is their only choice. She sees her work with these young women to enhance “options other than the sex industry...Our job is to get them legitimate, real tangible options” (Song, 2020).

In one month of 2018, the GEMS Educational Initiative Program assisted 122 participants. “Our work works. And we have the numbers to prove it: 54 percent were enrolled in college; 46 percent are pursuing a GED/TASC; 73 percent are enrolled in high school” (GEMS-Girls, 2018).

African American legal scholar Cheryl Nelson Butler writes, “Narratives about women of color who choose prostitution dominate discourse. Yet, the privileging of this one type of narrative as an essentialist experience undermines the fight against sexual exploitation.”

She continues. “Narratives of women of color who view prostitution as a form of empowerment (as opposed to a system of oppression) have dominated the scholarly discourse on race and prostitution... Abolitionist feminism gives voice to an alternative perspective of women of color in prostitution — one that has been marginalized” (Butler, 2016).

Pro-sex work proponents won’t even mention the words pimp, sex buyer and exit programs. Decriminalization of prostitution, which is actually decriminalization of the sex industry, depends on casting pimps and buyers in the role of good guys.

For years, romanticization of the prostitution industry has dominated various UN agencies. As a 2011 UNAIDS Advisory Group report states: “People who...find themselves tricked or coerced once within the sex industry, can find their way out of situations of coercion but remain in sex work operating more independently and usually with the support from their fellow sex workers, their clients, their intimate partners and their managers or agents” (UNAIDS, 2011). Somehow, I doubt that most prostituted women will be snookered into believing that clients, managers

and agents – better known as johns, brothel operators and pimps – are their future safety nets. It is appalling that the best decriminalization campaigns can offer is the recommendation that prostituted women will be protected by the pimps and sex buyers who will be released from any legal accountability.

Like all reports that focus on decriminalization, this UNAIDS report resists any mention of exit programs and seldom references sex buyers and pimps unless they are transformed into cordial clients or managers who promote the best interests of “sex workers.” In the decriminalization writings, there exists an entrenched prohibition about calling pimps and sex buyers abusers.

Proponents of decriminalization are aware that if they specifically make clear that “full decriminalization” proposals include decriminalizing sex buyers and pimps more people would ask more questions and offer more challenges to this policy. Thus, the only way to explain the bad guys is to baptize them as the good guys. Decriminalization efforts go further in christening the entire sex industry as “sex work” and as a legitimate enterprise that just happens to exploit its “workers.”

Those familiar with decriminalization claims know that it is not the answer. Evidence demonstrates that countries such as Germany, the Netherlands, New Zealand (Raymond, 2018) and other countries that have either decriminalized or legalized their systems of prostitution offer no acceptable protection for women in the sex trade. Rather these countries have gifted pimps by de-stigmatizing them as criminals and transforming sex buyers into “benevolent customers.” And they have become destinations for sex traffickers who prey on poor, vulnerable and immigrant women who now populate the brothels of these countries.

So why advocate for decriminalization, which removes penalties on prostituted women but also whitewashes pimps and buyers? Why would we want to decriminalize a sordid system that abuses anyone, but mainly women and those who are treated as women?

Proponents contend decriminalization mitigates the harm that women in prostitution experience. However, harm mitigation is not harm elimination. Harm mitigation offers mainly “solutions” that keep women in prostitution with no way out. This is not to say that harm mitigation measures are meaningless, but they need to be developed within a context of harm elimination that gives prostituted women a vision of their future.

Harm elimination should be the ultimate goal. To use an example, we not only want to reduce COVID-19 cases and deaths and take better care of its victims, but we work to eliminate the factors that cause the disease and to develop a vaccine that would ultimately eradicate it.

I have seen no evidence of harm elimination goals in decriminalization proposals that would help to lift victims out of an exploitative and dangerous industry and give them the tools to empower themselves. Eliminating prostitution cannot co-exist with redefining it as sex work and glamorizing pimps and sex buyers.

Carter reminds us, “The push for decriminalization is maddening. This is a battle we’ve been having for a long time and unfortunately some Black women are buying it. It pushes us backwards and goes against everything survivors of prostitution are fighting for.”

Particularly in this time of racial justice advocacy, it is imperative that we focus on justice for Black and Brown women. Decriminalization of the sex industry is not the answer. Decriminalize the women but not the industry that exploits them

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