Criminalization of Trafficking Victims in the U.S. and the Need for Effective Remedies and a Rights-Based Approach: Question 21(a) and 21(b) in the List of Issues

The US's emphasis on a criminal justice approach to sex trafficking results in high rates of arrests of trafficking victims and serious collateral harms, including criminal records, traumatization, limited housing and employment options, risk of deportation, and deep seated mistrust of law enforcement. A rights-based approach in compliance with ICCPR Articles 7 and 8, calls for due diligence in prosecution of cases, protection of victim witnesses, and freedom from cooperation requirements in exchange for remedies.

- Recognizing state failure to identify victims, and the fundamental injustice of their criminalization, some states have enacted statutes to allow survivors to vacate convictions that were a result of trafficking. Since our previous submission, we have become aware of three additional states that have enacted vacatur statutes: Mississippi, Montana, and North Carolina. This brings the total number of states that have vacatur remedies to 16.

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