



## Trafficked Women's Second Chance

**It's like a cruel joke: Women forced into the sex trade end up with rap sheets for prostitution. But a years-long effort to vacate their records is finally paying off.**

by [Hugh Ryan](#) | October 14, 2011 5:53 PM EDT

For 10 years, Maria (not her real name) was beaten, raped, and forced into prostitution by her husband, a New York City resident. He often refused to allow her food, locked her in a room without a toilet for days at a time, and made her buy drugs for him. As a non-English speaker induced to enter this country by the very man who tortured her, she had few options or resources.

“I was made to be a sexual slave,” Maria said, “to make him money.”

Over the course of a decade, she was arrested repeatedly on prostitution and drug charges, garnering a long and damning criminal record before her husband finally disappeared, leaving her with psychological scars—and a criminal record.

Maria, now a professional in the health-care field, is a survivor of human trafficking, a crime that may affect as many as 12 million people worldwide, according to the International Labour Organization, a U.N. human-rights agency. The most extraordinary part of Maria's story is not the hell she went through, but the fact that she escaped and put that life behind her.

Or at least, she tried to. Unfortunately for Maria, a criminal record stays with you forever. On every job interview, loan form, credit check, or visa application, she must disclose her arrests. In this Kafkaesque twist of the legal system, Maria is a victim indelibly marked as a criminal. Few offenses carry a greater stigma than prostitution, which makes finding work (or becoming a citizen) a near impossibility for her and other survivors.

Until recently, their options were few: lie, or find work in the shadowy world of undocumented labor. But this past spring, Maria became the first person in the country to have her record wiped clean of crimes she was forced into as a result of trafficking, thanks to a new state law that is the culmination of years of political organizing.



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“There was no way to go back and erase a criminal conviction in New York,” says Sienna Baskin, co-director of the organization that helped Maria, the Sex Workers Project of the Urban Justice Center. SWP is a legal advocacy organization that helps sex workers of all kinds, from trafficked individuals to those who freely engage in commercial sex. In 2007, SWP helped create the New York Anti-Trafficking law, which made human trafficking a statewide offense.

“We wanted to have as part of that law a remedy for people who’ve been convicted of prostitution,” said Baskin, but it wasn’t included in the final bill. So in 2010, they drafted and were instrumental in passing Criminal Procedure Law §440.10(1)(i), which allows judges to vacate convictions directly related to an individual’s history as a trafficked person. This law, the first of its kind in the nation, gave Maria and other survivors the chance to truly leave their pasts behind. It also sparked a wave of similar organizing around the country.

“We were really interested in the law because we were seeing the same types of issues coming up with the clients we work with,” said James Dold, policy counsel at Polaris Project, a national group that tracks and assists state-level anti-trafficking organizing. Within a year of the New York law, vacating bills were passed in Nevada, Illinois, and Maryland, and other bills are pending or being organized in California, DC, Hawaii, Virginia, and Washington. These bills have wide bipartisan support, but certain provisions have caused some lawmakers to balk. Virginia’s bill, though it was Republican-sponsored, failed to pass on its first try because of concerns about “decided cases” being “re-opened.” Because prostitution is a state-level offense, Polaris Project and other organizers must adapt their bills to local realities.

“In all the states, we start out with something that is similar to the New York model,” said Dold, who referred to Criminal Procedure Law §440.10(1)(i) as the “gold standard.” Similar, however,

doesn't mean identical. For example, under the new Maryland law, Maria's criminal charges would have been expunged, not vacated. What's the difference?

She holds a special visa created for individuals trafficked into this country.

"Expungement does not effect your criminal record for purposes of immigration," said Baskin. "Immigration can still look at those criminal records and use them to deport you." As many survivors, like Maria, are not U.S. citizens, this is a potentially dangerous loophole, which organizers like Baskin hope will be closed through amendments to the bill. These and other issues (including lack of funding for lawyers working with survivors) have slowed the implementation of these laws to a crawl.

Even in New York, with the "gold standard" law, only three survivors have seen their convictions vacated in the year the bill has been on the books. "We could bring a hundred of these motions tomorrow, if we had a hundred attorneys to work on them," said Baskin. Although trafficked individuals are likely just a small portion of those involved in commercial sex, more and more have come forward as legal remedies have been created to help them. But funding, assistance, and education around the new laws take time.

As for Maria? "My whole life is different now," she said. She has been reunited with her family, holds a T-visa (a special visa created for individuals trafficked into this country), and is in the process of becoming a U.S. citizen.

"When the door opens for you, your whole life changes."