



SEX WORK AND MIGRATION POSITION STATEMENT

Migrant sex workers are people who travel from one place to another and who exchange sexual services for money, food, accommodation, status, or other compensation. The term 'sex work' refers to voluntary sexual transactions and, thus, does not refer to coerced or non-consensual transactions (Valadier, 2018). Like other forms of work, people make decisions about their career, their choice of work, and their lives according to their own circumstances- such as economic and social conditions, personal preference and ability, and available opportunities. People decide to do sex work for various reasons, including providing for their basic needs, for economic security, to move away from oppressive circumstances, and/or to pursue their dreams.

Many sex workers come to Canada with precarious immigration status (e.g., refugee claimants, international students, temporary workers, under spousal sponsorship etc.). This means that they face barriers in accessing health, economic, and legal support as a result of their immigration status (Fudge et al. 2021). Most of these sex workers live at the intersections of race, gender, economic insecurities, and immigration status. While there is no accurate/recent gender breakdown of sex workers in Canada, the majority of sex workers identify as women (cis and trans; Benoit & Shumka, 2021); and a 2014 working paper estimated that about 6% of sex workers identified with a gender other than cis-gendered (e.g., non-binary; Benoit et al., 2014).

As the law currently stands, it is sex workers with marginalized intersectional identities that are the most negatively impacted by the policy landscape. The threats sex workers face are often due to the wrong conflation of sex work and human trafficking. Often, women and gender-diverse migrant sex workers are wrongly constructed as trafficked victims- exploited and in need to be rescued. The community and support systems of migrant sex workers are being identified as organized crime. The idea that all migrant sex workers are 'trafficked victims' contributes to a victimhood narrative that reinforces their social locations and precarity (Egale, 2021; Lam & Santini, 2020; Valadier, 2018).

Sex workers face a multitude of human rights violations; and a global systemic review (Deering et al., 2014) has found staggering high lifetime prevalence of physical, sexual, or combined workplace violence, with violations being most profound where aspects of sex work are criminalized (Decker et al., 2015). Various human rights organizations, UN bodies and courts (e.g., UN Development Programme, Amnesty International, Human

Rights Watch, World Health Organization etc.) have also concluded that criminalization enables exploitation of sex workers to occur (Canadian Alliance for Sex Work Law Reform, 2017).

Women and gender-diverse migrant sex workers experience increased impacts of the criminalization of sex work, which intersect with other systemic inequalities, such as precarious immigration status, leading to the further exploitation of vulnerabilities. Thus, while cis and transgendered women and gender-diverse people report coming to Canada in search for a better life, safe from discrimination, violence and transphobia, the policing, targeting and lack of resources and support they experience as sex workers force them into conditions that expose them to brutality (Standing Committee on Justice and Human Rights, 2022). While migrant women and gender-diverse people who perform sex work experience oppression, marginalization, surveillance, racial profiling, over-policing, and stigmatization due to stigmas related to the intersection of their social locations, their voices are often left out of discussions about sex work in Canada (Liew, 2020).

The Alliance for Gender Justice in Migration is centering those very same voices. We are a network of people with lived experience, academics, advocates, and service providers across Canada who are actively working together to end discrimination against women and gender-diverse people with precarious immigration status, including migrant sex workers. Women and gender-diverse people who have come to Canada as temporary workers, international students, refugee claimants, in-land family sponsorship applicants, and other temporary residents, all of whom are vulnerable to losing their status, experience multiple oppressions and face uniquely gendered challenges throughout their immigration trajectories. We aim to build a coordinated response to systemic barriers and issues identified by members, conduct research and develop policy solutions, raise public awareness, and advocate for change to policies that create social, economic, legal and political inequities. Applying a human rights approach and feminist intersectional analysis, we strive to create an equitable space where the voices of women and gender-diverse people with lived experience are at the centre.

We are calling on the Government of Canada to remove the criminalizing and stigmatizing elements of the current policy landscape for migrant sex workers so that they may experience better working conditions and increased access to resources. The precarious conditions for women and gender-diverse migrant sex workers need to be addressed, as these individuals often experience legal and social risks associated with a multitude of factors related to both their immigration status and criminalization of their work.

The calls to action point to the need for a shift in the conversation and understanding of sex work as dignified work, allowing individuals to use their agency to choose the type of employment they want to engage in. By framing sex work in this way, migrant sex workers will be able to advocate for themselves and unite to push for protections and good working

conditions. Fears associated with stigmatization and criminalization currently act as a barrier to such positive outcomes. Reforms will bring empowerment, allowing migrant sex workers to guide the conversation, and unite with community to better advocate for themselves as a collective.

Sex work, precarious status and a “web of criminality”

In the 2022 Standing Committee on Justice and Human Rights Meeting on preventing harm in the sex industry, Elene Lam, the founder of Butterfly (a migrant sex workers support network), told of a worker who had been assaulted four times but will not scream if assaulted again for fear the police will come, because a friend was arrested and deported.

Migrant sex workers must navigate a complex “web of criminality” (Fudge et al., 2021) of punitive intersecting criminal laws targeting sex work and human trafficking, federal immigration laws, as well as provincial human trafficking laws and municipal bylaws. All these laws work in conjunction to criminalize the work and the lives of people with precarious immigration status selling and trading sexual services for goods, money, or other resources (Egale, 2021; Fudge et al., 2021).

Women and gender-diverse migrant sex workers are harmed daily by criminalization, racial profiling, surveillance, over policing, stigmatization, and consequential discrimination that compound human rights violations against migrant communities working in the sex industry. Law enforcers are perceived as a source of major violence against the sex workers instead of a source of protection and support (Benoit et al., 2017; Egale, 2021; Fudge et al., 2021; LEAF, 2022; Millar & O’Doherty, 2020).

Current Canadian legislation approaches sex work as a social nuisance – an undesirable part of society that requires punitive Criminal Code sanctions to control and dissuade others from engaging in it (Benoit et al., 2017). **The Protection of Communities and Exploited Persons Act (PCEPA;** under Bill C-36) has been the federal legislative framework of sex work in Canada since 2014 (Egale, 2021). It criminalizes the business and enterprise of sex work by prohibiting the solicitation and promotion of sex work as outlined in Bill C-36.

While the government maintains that PCEPA does not harm sex workers, as it only makes *buying* sex illegal, the lived experiences of those performing sex work tell a different story. It is near impossible to conduct sex work without breaking the law (Benoit et al., 2017). PCEPA creates sex work offences that make almost all activities related to sex work illegal, e.g., communication of sexual services, material benefits, procuring and advertisement etc. PCEPA has infringed the majority of sex workers' charter rights, engendering many human rights violations, threatening sex workers' economic, social,

and physical safety. (Argento et al., 2020; Canadian Alliance for Sex Work Law Reform, 2017; Egale, 2021; OHCHR, 2023).

While Canadian end-demand laws represent sex workers as exploited persons meriting protection, research has found no evidence of sex workers' increased access to police protections; rather, sex workers continue to face disrespectful treatment and threats of arrest when seeking assistance from police and thus attempt to avoid police interactions, as previously documented (Benoit & Shumka, 2021; Chu et al., 2019; LEAF, 2022; McBride et al., 2020). This is especially the case for racialized women and gender-diverse migrant sex workers. For example, a 2019 study by the Centre for Gender & Sexual Health Equity found an 87% increase in unreported violence by racialized migrant sex workers since the implementation of PCEPA. Furthermore, a longitudinal study with close to 800 sex workers who identified their immigration status found that post-PCEPA sex workers with precarious immigration status faced condom refusal by clients that increased fourfold in comparison to pre-PCEPA; in addition, they faced this issue more often than sex workers with Canadian citizenship (McBride et al., 2021).

The precarity of women and gender-diverse sex workers with precarious immigration status is amplified as **Immigration and Refugee Protection Act and its Regulations (IRPR)** disallow anyone without Canadian citizenship or permanent residence from engaging in sex work, even those who, otherwise, have authorization to work in Canada. Even those who have open work permits, such as international students, refugee claimants or sponsored people, are not allowed employment in the sex work and related industry (e.g., erotic massage parlours, escort, and striptease services).

PCEPA is often the entry point for police into migrant sex workers' lives via investigation of clients, neighbours' reporting of sex work activity, or other reasons. This criminalization works in tandem with immigration laws, leading to what has been deemed "collateral immigration consequences" (Paradkar, 2022 quoting Jamie Liew from Canadian Association of refugee lawyers). Migrant sex workers are often being reported to CBSA, which can trigger a whole host of IRPR violations, when they report violence against them or when they are being investigated by police or bylaw enforcement officers (Fudge et al., 2021).

Thus, with PCEPA often as the gateway, women and gender-diverse sex workers with precarious status, generally, experience becoming the target of an anti-trafficking investigation and/or being arrested, detained and deported. They may risk losing their opportunity to obtain permanent residency. The combination of laws leads to "extremely punitive consequences for sex workers who are non-citizens, leading to detentions, deportations, and a ban on re-entry for anywhere from a year to a lifetime – even if there is no criminal charge laid" (Paradkar, 2022).

Anti-trafficking offences are often employed in the investigation of migrant sex workers, even when there are no elements of human trafficking or exploitation (Lam, 2018a). This conflation has been criticized by scholars, UN bodies, and sex workers themselves for being harmful not just to sex workers but also to victims of trafficking (LEAF, 2022). The Special Rapporteur of contemporary forms of slavery has recently also reported serious concern that in Canada anti-trafficking rhetoric and implementation of anti-trafficking efforts have had a negative impact on the human rights of sex workers due to this conflation that has been reported to be sometimes intentional (OHCHR, 2023). Racism and sexism profoundly influence anti-human trafficking initiatives that portray women and gender-diverse people with precarious immigration status as helpless victims. This is especially true in cases of racialized women, particularly from migrant, Asian and Indigenous communities who engage in sex work (Egale, 2021; Lam, 2018a).

In Canada, a complex and multiscalar web of laws has been constructed to target sex trafficking, ranging from federal prohibitions against human trafficking in the *Immigration and Refugee Protection Act* and *Criminal Code*, to provincial laws that provide tools to raise awareness of the offence and to detect alleged traffickers to municipal by-laws that strictly regulate businesses such as massage parlours, body rub salons, and holistic centres considered to be at risk of harbouring human trafficking.

The human trafficking offences are included in the current criminal code:

- **human trafficking**, defined as recruiting, transporting, transferring, receiving, holding, concealing or harbouring a person, or exercising control, direction or influence over the movements of a person, “for the purpose of exploiting them or facilitating their exploitation” with penalties ranging from a mandatory minimum sentence of 4 years up to life imprisonment (s. 279.01(1) of the *Criminal Code*);
- **materially benefitting from human trafficking**, prosecuted either as a summary offence or an indictable offence liable to a 10-year prison sentence (s. 279.02 of the *Criminal Code*); and
- **withholding or destroying travel or identification documents**, prosecuted either as a summary offence or an indictable offence liable to a 5-year prison sentence (s. 279.03 of the *Criminal Code*).

Provincial and municipal regulations are framed as protecting the public from nuisance and ensuring the community's safety and health (Egale, 2021). The regulation often extends from inside the workplace to public spaces and equips law enforcement teams with legal powers to enter the sex workers' workplace frequently, with migrant workers, trans, Black, and Indigenous sex workers being disproportionately targeted and displaced (Egale, 2021; Fudge et al., 2021; Lam, 2018a; LEAF, 2022; Santini & Lam, 2017; Standing Committee on Justice and Human Rights, 2022). According to Egale (2021), the presence of police officers and the city inspector creates a distressing environment and

uncertainty for migrant sex workers. Additionally, it creates barriers for businesses to create conducive working conditions for supporting sex workers.

With the lobbying of anti-trafficking organizations, many provinces have increased police power, racial profiling and targeting of sex work. For example, the Ontario government has allocated over \$307 million to combat human trafficking in 2020, with the majority allocated to law enforcement and anti-sex work organizations. Provincial anti-trafficking laws, such as Ontario's Combating Human Trafficking Act, are used to regulate massage parlours and other spaces where sex work occurs (LEAF, 2022).

The Ontario government passed Bill 251 to give law enforcement access to client records at the hotel, to inspect any place and interrogate anyone, despite opposition from many human rights, racial justice and migrant organizations, who argue that the power given to law enforcement by Bill 251 is pushing precarious, vulnerable, and marginalized sex workers further underground and away from supports and services (Butterfly & HIV Legal Network, 2021). Recently, hundreds of massage parlours, particularly run by Asian migrants are targeted and racially profiled by the joint efforts of private corporates, law enforcement, city governments and The Financial Transactions and Reports Analysis Centre of Canada (FinTRAC) to ban them from using financial services, to cease their assets, and shut down their business.

Municipal bylaws are often being used as a tool to target racialized and migrant sex workers (Fudge et al., 2021; Lam, 2018b). For example, the Town of the Newmarket passed a bylaw which required the workers to be trained by Canadian education institutions. Asian massage parlours were being racially profiled and shut down (Quigley, 2022). Municipal bylaws are often the pipeline of criminalization investigation and immigration deportation. Sanctuary cities like Toronto allow undocumented immigrants to access city services without immigration status (Egale, 2021). However, most of the cities often violate their policies, e.g., the police and bylaw enforcement would report the victims to CBSA when they report experiencing violence or during their investigation (ibid). As a result, migrant sex workers will experience uncertainties and stress as they interact within and outside the sanctuary. Sex workers have reported that the approach of inspectors has become more and more abusive and provocative over the past years (Lam, 2018b).

Researchers have documented for some time now how the federal government's response to migrant sex workers slipped from claiming to protect victims from exploitation to 'protecting' Canadians from undesirable migrants (Fudge et al., 2021). Overall, it has been found that the current framework fails its stated aim of: "protecting" the most "vulnerable" and "encourage[ing] those who sell their own sexual services to report incidents of violence and exploitation committed against them" (Crago et al., 2021).

Indeed, women and gender-diverse migrant sex workers' experiences portray how these laws and policies have led to extraordinary surveillance and unjustified criminal charges against them, as well as against third parties. They report how these criminalizing and stigmatizing elements result in heightened economic and legal vulnerability and how stigma, privacy concerns (such as police putting sex work on one's criminal record or one's family finding out), and risk of immigration status revocation (the loss of official immigration status and risk of deportation) represent powerful barriers to seeking police protections in the context of im/migrant sex work.

Targeted violence and multi-level discrimination

With the conflation of consensual sex work and sex trafficking, together with the added prohibitive immigration policies that explicitly criminalize sex work for those with precarious immigration status, racialized im/migrant sex workers are rendered susceptible to heightened scrutiny not just from authorities, but also from others within the community. Women and gender-diverse sex workers with precarious immigration status experience stigmatization at different layers of society, which exposes them to violence from a variety of sources (Fudge et al., 2021), while at the same time, they are being isolated from support networks that could offer them protection from this violence.

Migrant sex workers not only have to evade police and other law enforcement bodies for fear of surveillance and apprehension, but their positioning also makes them less likely to report crimes perpetrated against them by others (Crago et al., 2021; Malla et al., 2019). A Canadian study found that for sex workers, im/migrant status was associated with 58% lower odds of reporting violence to police (McBride et al., 2020). As a result, women and gender-diverse sex workers with precarious status often are easy targets to predators who know that this group, given their precarious legal status and the criminalization of their work, has no effective recourse to state protection (ibid).

Migrant sex workers have reported that in cases where they are victimized (e.g., assault or robbery), police, instead of investigating the crime committed against them, have proceeded to arrest the sex workers themselves (Lam & Santini, 2020). The Special Rapporteur on contemporary forms of slavery has also raised serious concerns over a lack of investigation in situations where sex workers are victimized and/or experience violence in Canada (OHCHR, 2023).

Rather than protecting the human rights of migrants and other communities who may be vulnerable to labour exploitation, existing laws, policies, and law enforcement measures intended to combat human trafficking have stoked moral panic surrounding sex work, intensified profiling of sex workers and racialized communities, and have profoundly threaten the safety, security, and well-being of migrant sex workers. Hotel staff, flight

attendants, uber drivers, medical professionals, and social services providers are trained to surveil sex workers.

This has led to migrant sex workers being pushed further into isolation, which perpetuates the conditions in which violence can occur. For example, after police raids, workplaces may be closed down, resulting in women and gender-diverse migrant sex workers being forced to work in more isolated locations (e.g., smaller cities or towns) where they are further removed from those who speak their language and from community supports. In addition, for racialized migrant workers, they also fear experiencing more racism in these locations (Butterfly, 2022).

Thus, women and gender-diverse migrants who have already experienced displacement due to their immigration history, are once again displaced from their homes, but this time in Canada. Others start operating out of apartments, where they experience robberies because of reduced security compared to their previous commercial establishment, as well as greater pressure to perform services they do not want to perform (ibid).

Not only are migrant sex workers themselves targeted but so are their support systems, as friends and family, who are often wrongfully framed as traffickers, are arrested and sentenced when they try to help with advertisement, communication, and protection. In certain cases, individuals associated with sex workers, e.g., romantic partners, may also face having to leave Canada (Butterfly, 2022). Community-building has been found to have crucial positive and protective effects for sex workers, yet migrant sex workers have lower odds of community participation due to the compounding criminalization and stigmatization they experience (Pearson et al., 2022).

Migrant sex workers, in particular, rely on these community networks for work due to barriers relating to language and access to technology. The role clients can play in the lives of migrant sex workers has also been described as a crucial resource and as an important support system (ibid), as clients are often a source of information and protection (Lam & Santini, 2020). The criminalization of such third parties, which migrant sex workers rely on more than their Canadian-born counterparts (McBride et al., 2019), isolates them from much-needed support networks, leaving them vulnerable to violence and without resources to prevent and/or overcome experiences of trauma and victimization (SWAN, 2022).

The targeting of their communities jeopardizes migrant sex workers' safety. Third parties are often unable or afraid to provide resources and access to harm reduction tools/strategies (e.g., condoms) that would, otherwise offer protection (Butterfly, 2022). At times, this fear has fatal consequences. For example, the driver of a migrant sex worker hesitated to take immediate action when he suspected the worker was in danger, as he did not want any potential legal repercussions associated with being a third party (ibid). She was murdered.

The portrayal of migrant sex workers' support systems as 'traffickers' in cases where no exploitation is present, thus, can result in the exploitation, and sometimes, even the death of women and gender-diverse individuals.

Criminalization of sex work has been proven to result in the disruption of sex workers' community and personal support networks and harm reduction strategies, but also access to health services, housing, child custody, employment rights, and, overall, access to justice (Butterfly, 2020; Canadian Alliance for Sex Work Law Reform, 2015; Centre for Gender & Sexual Health Equity, 2019; Platt et al., 2018). A lack of access to health services, employment rights and financial supports leaves migrants with limited options. The stigma associated with sex work, which is exacerbated by this web of laws, poses a barrier to accessing health and social services; and this is magnified for migrant sex workers who face a host of linguistic, social and legal barriers (Fudge et al., 2021). Canadian research has found that migrant sex workers tend to be (three times) more likely than non-migrant sex workers to have unmet health needs (Sou et al., 2017)

Poor working conditions can occur in any industry. In terms of employment conditions, migrant workers have little recourse, if any at all, against poor working conditions, as they are not entitled to the same labour rights as those with permanent residency or citizenship status. For migrant sex workers who are in need of leaving their workplace, precarious immigration status makes it difficult to find another job. Criminalization acts as an additional barrier to addressing these issues, due to the stigmatization associated with sex work, with all of this resulting in sex workers having an unequal power dynamic with clients (Egale, 2021; OHCHR, 2023). Those with a history of doing sex work may have more difficulty finding a job, and some may even have criminal records which prevent them from doing so (Fudge et al., 2021).

In addition, assessing the conditions of another workplace is challenging due to the secrecy surrounding the industry (Butterfly, 2022). Migrant sex workers face systemic racism and inequality in the job market, which limits their ability to engage in employment outside the massage and sex work industries for those who would want to explore those options (Fudge et al, 2021). It also limits their ability in seeking financial support. After the Covid-19 outbreak, many sex workers could not access government income supports due to criminalization and stigma against sex work (Benoit & Unsworth, 2022). Denying these realities only results in individuals being forced into poverty at the hand of government policy. Further criminalizing these individuals places an additional barrier to their economic empowerment, and to their ability to seek help when it is needed.

The current sex work framework interacts with other laws and systemic barriers to hinder migrants' participation in Canadian society and enjoyment of human rights. This web of laws result in stigmatization, isolation, and violence-at times with fatal consequences. It harms women and gender-diverse individuals by depriving them economically and

socially and exposes them to greater health and safety risks. Criminalization and stigma intersect to expose migrant sex workers to exploitation and harassment while they are not offered the protections necessary to create better conditions. Women and gender-diverse migrants who have come to Canada with the hope of increased safety and protections, instead, experience targeted violence.

We must strike a different path for a way forward to arrive at a future that offers them their human rights -rights we all deserve.

A better future for women and gender-diverse sex workers of precarious status

Many have called into question whether the criminal justice system in Canada effectively 'protects' the safety of migrant sex workers, a group marginalized and often racialized. It seems virtually impossible for Canada to continue this targeted criminalization and still "meet its parallel international and domestic legal commitments to ensure a range of protected human rights and freedoms, including equitable access to justice" (Millar & O'Doherty, 2020).

The existing literature supports the conclusion that these laws and policies do not protect migrant sex workers from exploitation, but, instead, make them more susceptible to deportation, criminalization, poor working conditions, exploitation, predators, racial profiling and ill health (Fudge et al., 2021).

In 2022, the [Report of the Standing Committee on Justice and Human Rights](#) recommended **repeal of ss. 183(1)(b.1), 196.1(a), 200(3)(g.1) and 203(2)(a) of the *Immigration and Refugee Protection Regulations (IRPR)*** – provisions which unfairly put migrant sex workers at elevated risk of violence and danger by imposing risks of deportation for those working in sex work-related industries. However, the IRCC still has not changed the related policy.

In the meantime, in 2023, sex worker and migrant organizations are concerned about the impacts on the new Bill s-224 which drastically expands the definition of exploitation on migrant sex workers and casts an even wider net to capture third parties (Pearson et al., 2023). There are serious concerns around how this will hamper meaningful efforts to address actual human trafficking as it further conflates consensual sex work with trafficking.

While the web of harmful laws and policies undermines women and gender-diverse migrants' ability to advocate for themselves and access their human rights, they still speak out. They reject the victim's label and report they are not trafficked victims. Many engage in this line of work because of its beneficial aspects (higher income, flexible working hours etc.), particularly in the face of the structural social factors that limit their ability to find

comparably beneficial employment. They deserve “rights” not “rescue”. They are calling for their work and agency to be respected.

Migrant sex workers are organized to fight for their rights, e.g., for status for all, the end of racial profiling, and surveillance and full decriminalization of sex work. Instead of the carceral system, they are calling for community supports and transformative justice so that they can have safety, dignity, and justice.

The Canadian Alliance for Sex Work Law Reform consists of over two dozen sex workers' rights groups, as well as sex workers and allies who fight for the rights and safer, healthier communities for sex workers. They work around law reforms to create a unified and cohesive response. In 2017, they published *Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada*, which includes a series of recommendations that outline a human rights approach to sex work law reform in Canada. Their “Key Principles and Precepts for Sex Work Law Reform” lay out a foundation for sex work law reform.

Recognizing sex work as work and removing the stigmatizing and criminalizing elements of the current policy framework will allow migrant sex workers to better access services and social supports. This means that sex work can become an overall safer occupation. A well-established body of research exists in demonstrating that criminalization of any part of sex work negatively impacts the health and safety of sex workers (Amnesty International, 2015; Amnesty International 2016a; Canadian Alliance for Sex Work Law Reform, 2017; Centre for Gender and Sexuality Health Equity, 2019; Santini, Chu, & Lam, 2017).

Decriminalization would enable workers to have official channels to demand workplace rights including issues related to health and safety, wages, the ability to form unions, access to state services and operate like any other free market activity without infringement or surveillance by the police (Abrol, 2014). Rather than relegating its occurrence to the risky underground context, women and gender-diverse individuals will be able to access health, legal, and community services, without fear of punishment. For migrants, economic empowerment means an increased ability for individuals to access critical supports to carry out the immigration process.

Decriminalization of sex work is essential but needs to move beyond the repeal of criminal laws and immigration laws to account for the realities of sex workers living at the intersections of different oppressions. Migrant sex workers are often left out of conversations around the industry and there tends to be a stark absence of reports by NGOs and people with lived experience (Liew, 2020). Future legal reform must turn to the “actual experience, history, culture, and intellectual tradition” of migrant sex workers themselves (ibid).

Thus, intersectional identities must be considered when creating policies regarding sex work. It is essential that legislation related to sex work has anti-racism at its foundation to prevent further barriers (many of which were mentioned in this statement) from harming racialized migrant sex workers. In addition, acknowledging the violence specific to trans and non-binary sex workers is crucial to make sure that sex work law reforms reflect the diversity of sex workers, including migrant sex workers who identify as women and gender-diverse.

Only by including the voices of diverse migrant sex workers can positive changes and safer working conditions be a reality for all sex workers, many of whom experience intersectional marginalization associated with racism, sexism, transphobia, and homophobia within and beyond sex work.

Recommendations

As migrant sex workers and their advocates recommend, decriminalizing sex work and repealing the immigration prohibitions on sex work would enable migrant sex workers to have the same access to employment, labour and occupational health, and safety protections as other workers. Such an approach would, therefore, reduce the vulnerability of these workers to conditions of exploitation, violence, and abuse.

Repealing municipal bylaws that target sex work, ceasing law enforcement raids and intrusions into sex workers' workplaces, ensuring that a labour and human rights analysis is used to examine and evaluate all existing and future laws and policies with respect to human trafficking, and reallocating human trafficking resources to settlement, health, legal and social services for migrant workers would also mitigate the harms perpetuated by Canada's existing repressive and carceral web that has ensnared so many migrant sex workers (Fudge et al., 2021).

The Alliance for Gender Justice in Migration is calling on the Government of Canada to remove the criminalizing and stigmatizing elements of the current policy landscape for migrant sex workers so that they may experience better working conditions and increased access to resources. Women and gender-diverse sex workers with precarious or no status often experience legal and social risks associated with a multitude of factors related to both their immigration status and criminalization of their work. It is time to recognize their agency and their right to live and work without fear of deportation, detainment, and violence.

Considering the variety of intersecting structural barriers discussed, the following are our recommendations:

Status for all

Enact a single-tier immigration status that affords all immigrants with full and permanent status. Create new pathways to permanent residency, including for undocumented workers. Immediate access to permanent residence for those experiencing gender-based violence and abuse is needed.

Fully decriminalize sex work

Sex work is work. Repeal all the sex work-specific criminal offences, including the offences in the *Protection of Communities and Exploited Persons Act* criminalizing sex workers, third parties and clients. To address violence and exploitation in the sex industry, use existing criminal laws of general application, including but not limited to criminal prohibitions against assault, sexual assault, theft, robbery, kidnapping and forcible confinement, extortion, intimidation, criminal harassment, uttering threats of death or physical harm.

Remove immigration ban on migrant sex work

Repeal immigration regulations (e.g., ss. 183 (1) (b.1) and 196.1(a) of the *Immigration and Refugee Protection Regulations*) and ministerial orders pertaining to migrants without permanent status working in the sex industry and ease work permit restrictions for all temporary foreign workers.

Repeal all repressive bylaws against sex work

Repeal municipal bylaws and stop bylaw enforcement that target sex work or the adult entertainment industry, e.g., body rub parlours, strip clubs and holistic centres.

Migrant and sex workers are not trafficked victims

Review existing anti-trafficking policies and programs that conflate sex work with human trafficking, and revise policies to remove assumptions that sex work is a form of trafficking or sexual exploitation. Ensure that a labour and human rights analysis is used to examine and evaluate all existing and future laws and policies with respect to human trafficking.

Ensure that Canadian Borders Services Agency is never involved in anti-trafficking investigations and raids.

Implement an anti-oppressive perspective that includes anti-racism, anti-sexisms, anti-trans and anti-homophobia

Immediately cease law enforcement raids and intrusions into sex workers' workplaces, which are often disproportionately affecting racialized women and gender-diverse sex

workers and cease detention and deportation of migrant workers, including migrant sex workers.

Meaningfully consult with diverse migrant sex workers about how laws and policies affect their lives and incorporate their insight into future legislation changes.

Support migrant sex workers' community-building and access to resources

Provide migrants, irrespective of their immigration status, with access, without fear, to all municipal, provincial, and federal services, rights, and protections.

Reallocate resources based on and/or used for the conflation of sex work and trafficking to settlement, health, legal and social services for migrant sex workers. Migrant sex workers deserve employment rights, opportunities to economic empowerment and access to legal, health, and social services.

References

- Abrol, M. (2014). The Criminalization of Prostitution: Putting Women's Lives at Risk. *Prandium: The Journal of Historical Studies*, 3(1).
<https://jps.library.utoronto.ca/index.php/prandium/article/view/21843/17744>
- Amnesty International. (2015). Sex Workers' Rights are Human Rights.
<https://www.amnesty.org/en/latest/news/2015/08/sex-workers-rights-are-human-rights/>
- Amnesty International. (2016). Amnesty International policy on state obligations to respect, protect and fulfil the human rights of sex workers.
<https://www.amnesty.org/en/documents/pol30/4062/2016/en/>
- Argento, E.; Goldenberg, S.; Braschel, M.; Machat, S.; Strathdee, S.A.; Shannon, K. (2020) The impact of end-demand legislation on sex workers' access to health and sex worker-led services: A community-based prospective cohort study in Canada. *PLoS ONE*, 15(4). <https://doi.org/10.1371/journal.pone.0225783>
- Benoit, C., Atchison, C.; Casey, L.; Jansson, M.; McCarthy, B.; Phillips, R.; Reimer, B.; Reist, D. & Shaver, F.M. (2014). Gender, Violence, and Health: Contexts of vulnerabilities, resiliencies, and care among people in the sex industry.
<http://www.understandingsexwork.com/sites/default/files/uploads/Team%20Grant%20Working%20Paper%201%20CBenoit%20et%20al%20%20September%2018%202014.pdf>
- Benoit, C.; Jansson, M.; Smith, M.; Flagg, J. (2017). Well, It Should Be Changed for One, Because It's Our Bodies: Sex Workers' Views on Canada's Punitive Approach towards Sex Work. *Social Sciences*, 6(2), 52. <https://doi.org/10.3390/socsci6020052>
- Benoit, C. & Shumka, L. (2021). Sex Work in Canada.
<https://www.uvic.ca/research/centres/cisur/assets/docs/understanding-sex-work/2021-07-03-who-are-sex-workers-updated.pdf>
- Benoit, C. & Unsworth, R. (2022) COVID-19, Stigma, and the Ongoing Marginalization of Sex Workers and their Support Organizations. *Arch Sex Behav* 51, 331–342. <https://doi.org/10.1007/s10508-021-02124-3>
- Butterfly (Asian and Migrant Sex Workers Support Network; February 2022). Submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act.

<https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11707078/br-external/ButterflyAsianAndMigrantSexWorkersSupportNetwork-e.pdf>

Butterfly (Asian and Migrant Sex Workers Support Network) & HIV Legal Network (2021). <https://www.hivlegalnetwork.ca/site/joint-submission-on-bill-251-combating-human-trafficking-act-2021/?lang=en>

Canadian Alliance for Sex Work Law Reform. (2015, June). Sex Work and Changes to the Criminal Code After Bill C-36: What Does the Evidence Say? <http://sexworklawreform.com/wp-content/uploads/2017/05/Laws-General.pdf>

Canadian Alliance for Sex Work Law Reform (2017). Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada. <http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf>

Centre for Gender & Sexuality Health Equity (2019). Harms of end-demand criminalization: impact of Canada's PCEPA laws on sex workers' safety, health & human rights. https://www.cgshe.ca/app/uploads/2019/12/Harms_2019.12.16.v1.pdf

Chu, S. K. H.; Clamen, J. & Santini, T. (2019). The perils of protection : Sex workers experiences of law enforcement in Canada. Canadian HIV/AIDS Legal Network. https://www.actioncanadashr.org/sites/default/files/2019-04/2807_HIVLegalNetwork_SexWorkerDocumentation_Report_English_Final.pdf

Crago, A. L.; Bruckert, C., Braschel, M., & Shannon, K. (2021). Sex Workers' Access to Police Assistance in Safety Emergencies and Means of Escape from Situations of Violence and Confinement under an "End Demand" Criminalization Model: A Five City Study in Canada. *Social Sciences*, 10(1), 13. <https://doi.org/10.3390/socsci10010013>

Decker, M.R.; Crago, A.L.; Chu, S.K.; Sherman, S.G.; Seshu, M.S.; Buthelezi, K., Dhaliwal, M., Beyrer, C. (2015). Human rights violations against sex workers: burden and effect on HIV. *Lancet*, 385(9963), pp. 186-99. DOI: [10.1016/S0140-6736\(14\)60800-X](https://doi.org/10.1016/S0140-6736(14)60800-X)

Deering, K.N.; Amin, A.; Shoveller, J.; Nesbitt, A.; Garcia-Moreno, C.; Duff, P.; Argento, E.; Shannon, K.; (2014). A systematic review of the correlates of violence against sex workers. *Am J Public Health*, 104(5), pp. 42-54. PMID: [24625169](https://pubmed.ncbi.nlm.nih.gov/24625169/)

Egale (2021). Sex Work In Canada Research Brief. <https://egale.ca/awareness/sex-work-brief/>

Fudge, J.; Lam, E.; Chu, S. K.H.; Wong, V. (2021). Caught in the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers. <https://www.hivlegalnetwork.ca/site/caught-in-the-carceral-web-anti-trafficking-laws-and-policies-and-their-impact-on-migrant-sex-workers/?lang=en>

- Lam, E. (2018a). Behind the rescue: How anti-trafficking investigations and policies harm migrant sex workers. Butterfly Asian and Migrant Sex Workers Support Network. DOI: [10.13140/RG.2.2.34498.61128](https://doi.org/10.13140/RG.2.2.34498.61128)
- Lam, E. (2018b). Survey on Toronto Holistic Practitioners' Experiences with Bylaw Enforcement and Police. https://www.researchgate.net/publication/343685269_Survey_on_Toronto_Holistic_Practitioners%27_Experiences_with_Bylaw_Enforcement_and_Police
- Lam, E. & Santini, T. (2020). A pathway to end violence against migrant sex workers: access, safety, dignity, and justice. https://www.butterflysw.org/files/ugd/5bd754_d680b25295cb40bdbbcc03f34a88c267.pdf
- LEAF (2022). Sex work laws in Canada: A position paper. <https://www.leaf.ca/wp-content/uploads/2022/04/LEAF-Sex-Work-Position-Paper.pdf>
- Liew, J.C.Y. (2020). The Invisible Women: Migrant and Immigrant Sex Workers and Law Reform in Canada. *Migration, Intersectionality, and Social Justice*, 14(1). <https://doi.org/10.26522/ssj.v2020i14.2144>
- Malla, A.; Lam, E.; Van der Meulen, E. & Hsin-Yun Peng (2019). Beyond Tales of Trafficking: A Needs Assessment of Asian Migrant Sex Workers in Toronto. Butterfly Network. https://www.researchgate.net/publication/343685555_Beyond_Tales_of_Trafficking_A_Needs_Assessment_of_Asian_Migrant_Sex_Workers_in_Toronto
- McBride B.; Goldenberg, S.M.; Murphy, A.; Wu, S.; Braschel, M.; Krüsi A & Shannon, K. (2019) Third Parties (Venue Owners, Managers, Security, etc.) and Access to Occupational Health and Safety Among Sex Workers in a Canadian Setting: 2010-2016. *Am J Public Health*, 109(5):792-798. DOI: [10.2105/AJPH.2019.304994](https://doi.org/10.2105/AJPH.2019.304994)
- McBride, B.; Shannon, K.; Bingham, B.; Braschel, M.; Strathdee, S.; Goldenberg, S.M. (2020) Underreporting of Violence to Police among Women Sex Workers in Canada: Amplified Inequities for Im/migrant and In-Call Workers Prior to and Following End-Demand Legislation. *Health Hum Rights*, 22(2), pp. 257-270. PMID: [33390711](https://pubmed.ncbi.nlm.nih.gov/33390711/)
- McBride, B.; Shannon, K.; Braschel, M.; Mo, M.; Goldenberg, S.M. (2021) Lack of full citizenship rights linked to heightened client condom refusal among im/migrant sex workers in Metro Vancouver (2010-2018). *Glob Public Health*, 16(5):664-678. DOI: [10.1080/17441692.2019.1708961](https://doi.org/10.1080/17441692.2019.1708961)
- Millar, H., & O'Doherty, T. (2020). Racialized, Gendered, and Sensationalized: An examination of Canadian anti-trafficking laws, their enforcement, and their

(re)presentation. Canadian Journal of Law and Society / La Revue Canadienne Droit Et Société, 35(1), 23-44. DOI: <https://doi.org/10.1017/cls.2020.2>

- OHCHR (2023). Tomoya Obokata Special Rapporteur on contemporary forms of slavery, including its causes and consequences. <https://www.ohchr.org/sites/default/files/documents/issues/slavery/sr/statements/eom-statement-canada-sr-slavery-2023-09-06.pdf>
- Paradkar, S. (2022). Moral panic over sex work has created suffocating prostitution law. Toronto Star. https://www.thestar.com/opinion/star-columnists/moral-panic-over-sex-work-has-created-suffocating-prostitution-law/article_cc2bb837-a5bc-53a2-a5e6-11a2daa72a96.html
- Pearson, J.; Krusi, A. & Mangat, R. (2023). Submission on Bill S-224, An Act to amend the Criminal Code (trafficking in persons). <https://cgshe.ca/app/uploads/2023/06/AESHA-WCL-Submission-Bill-S-224.pdf>
- Pearson, J.; Shannon, K.; McBride, B.; Krusi, A.; Machat, S.; Braschel, M. & Goldenberg, S. (2022). Sex work community participation in criminalized environments: a community-based cohort study of occupational health impacts in Vancouver, Canada: 2010–2019. *Int J Equity Health* 21, 18. <https://doi.org/10.1186/s12939-022-01621-8>
- Platt, L.; Grenfell, P.; Meiksin, R.; Elmes, J.; Sherman, S. G.; Sanders, T.; Mwangi, P. & Crago, A. L. (2018). Associations between sex work laws and sex workers' health: A systematic review and meta-analysis of quantitative and qualitative studies. *PLoS medicine*, 15(12). <https://journals.plos.org/plosmedicine/article?id=10.1371/journal.pmed.1002680>
- Quigley, J. (August, 2022). Newmarket starts crackdown on unlicensed massage parlours. *Newmarket Today*. <https://www.newmarkettoday.ca/local-news/newmarket-starts-crackdown-on-unlicensed-massage-parlours-5691797>
- Santini, T.; Chu, S. K.H. & Lam, E. (2017). Criminal Law and Migrant Sex Worker Rights. Butterfly Asian and Migrant Sex Workers Network. Butterfly Asian and Migrant Sex Workers Network; Chinese Canadian National Council Toronto Chapter (CCNCTO); The Chinese and Southeast Asian Legal Clinic (CSALC); St. Stephen's Community House (SSCH); The Law Foundation of Ontario. https://www.butterflysw.org/files/ugd/5bd754_7e9b78110c594d959c9af10a47f176b6.pdf
- Santini, T. & Lam, E. (2017). Municipal law and migrant sex workers' rights. https://www.butterflysw.org/files/ugd/5bd754_c5dcee7f55114eaf82ba5ddeeb68.pdf

- Sou, J.; Goldenberg, S.M.; Duff, P.; Nguyen, P.; Shoveller, J.& Shannon, K.(2017)
Recent im/migration to Canada linked to unmet health needs among sex workers
in Vancouver, Canada: Findings of a longitudinal study. *Health Care Women Int.*,
38(5), pp. 492-506. doi: [10.1080/07399332.2017.1296842](https://doi.org/10.1080/07399332.2017.1296842)
- Standing Committee on Justice and Human Rights (2022). Preventing harm in the
Canadian sex industry : a review of the Protection of Communities and Exploited
Persons Act : report of the Standing Committee on Justice and Human Rights.
[https://www.ourcommons.ca/Content/Committee/441/JUST/Reports/RP1189131
6/justrp04/justrp04-e.pdf](https://www.ourcommons.ca/Content/Committee/441/JUST/Reports/RP11891316/justrp04/justrp04-e.pdf)
- SWAN Vancouver (February, 2022). Brief to the Justice and Human Rights Committee
on Bill C-36: Protection of Communities and Exploited Persons Act.
[https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11594910/br
-external/SwanVancouverSociety-e.pdf](https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11594910/br-external/SwanVancouverSociety-e.pdf)
- Valadier, C. (2018). Migration and sex work through a gender perspective. *Contexto
Internacional*, 40(3), 501-524. [https://doi.org/10.1590/S0102-
8529.2018400300005](https://doi.org/10.1590/S0102-8529.2018400300005)