

Briefing Note

re: Alliance for Gender Justice in Migration (12/06/23)

Issue:

Sex Work and Migration for Women and Gender-diverse people with precarious immigration status.

Background:

The Vancouver-based **Migrant Workers Centre** (MWC) and the coalition it leads, **Alliance for Gender Justice in Migration** (<https://mwcbc.ca/alliance-for-gender-justice-in-migration/>), is playing an active role in the current debate about migrant worker policy reform at the federal level.

The Alliance for Gender Justice in Migration is concerned with the often-neglected concerns facing women and gender-diverse individuals. We are a network of people with lived experience, academics, advocates, and service providers from across Canada formed to identify trends and promote policy solutions aimed at ending discrimination against women and gender-diverse migrants in Canada. Migrants are at the centre of our policy development because we believe policy regarding rights and protections for undocumented migrants cannot be properly developed without their knowledge, understanding and expertise based on lived experience.

We call for the Government of Canada, and other lawmakers at the provincial and municipal levels, to revise its punitive intersecting criminal laws targeting sex workers. Women and gender-diverse migrant sex workers are harmed daily by criminalization, racial profiling, surveillance, over policing, stigmatisation, and discrimination. Sex work should be considered consensual and dignified in the law to promote safer working conditions and access to protection resources.

Key Considerations

- Sex workers with marginalised intersectional identities (e.g., racialized, trans, migrant communities) are disproportionately targeted and displaced, while also encountering various forms of abuses due to their precarious legal status, work criminalization, and isolation.
- Migrant sex workers encounter various forms of abuses, with violations being most profound where aspects of sex work are criminalized.
- Stigmatisation and discrimination result in a lack of access to health services, employment rights, and financial support, which are added barriers to their economic empowerment and physical, mental, and social well-being.
- Police raids often lead to harassment, detainment, and/or deportation. Therefore, sex workers with vulnerable status are less likely to report incidents of violence to law enforcement than sex workers who have status. Precarious immigration status was also associated with lower implementation of harm reduction strategies due to the imbalanced power dynamic created by carceral laws.
- The community and support systems of migrant sex workers are often identified as organised crime, despite research having shown that these community supports are a crucial source of protection and assistance for them. This results in this group facing displacement and grief from loss of support in Canada, after having already experienced that during their migration process.

- The Special Rapporteur on contemporary forms of slavery has noted that anti-trafficking rhetoric and implementation of anti-trafficking efforts have had a negative impact on the human rights of sex workers. Lack of investigations by Canadian law enforcement in situations where sex workers are victimised and/or experience violence was also noted as a concern.

Recommendations:

1. **Status for all.** Enact immigration status that affords all immigrants with permanent status, including new pathways to permanent residency for undocumented workers, and immediate access to permanent residency for those experiencing gender-based violence and abuse.
2. **Decriminalize sex work.** Repeal sex work-specific criminal offences, including the offences in the Protection of Communities and Exploited Persons Act (PCEPA) 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.
3. **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.
4. **Repeal municipal bylaws** and stop by law enforcement that target sex work or the adult entertainment industry, e.g., body rub parlours, strip clubs and holistic centres.
5. **Cease conflation of sex work and trafficking through policies and programs.** 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 the Canadian Borders Services Agency is never involved in anti-trafficking investigations and raids.
6. **Ensure that policies and conduct are rooted in anti-racism, anti-sexisms, anti-trans and anti-homophobia.** Cease law enforcement raids and intrusions into sex workers' workplaces, which are often disproportionately affecting racialized women and gender-diverse sex workers, and the associated detention and deportation of migrant sex workers. Consult with diverse migrant sex workers about laws and policies impacts in the development and implementation of law enforcement.
7. **Support migrant sex workers' community-building and access to resources.** Reallocate resources based on and/or utilized for conflation of sex work and human trafficking to settlement, health, legal and social services for migrant sex workers. Migrant sex workers deserve employment rights, opportunities for economic empowerment and access to legal, health, and social services.



**Alliance for Gender
Justice in Migration**
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