Canadian Alliance for Sex Work Law Reform

Alliance Canadienne pour la Réforme des Lois sur le Travail du Sexe

Brief submitted to the Standing Committee on the Status of Women
For the study on: Human Trafficking of Women, Girls, and Gender Diverse People
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Submitted by: the Canadian Alliance for Sex Work Law Reform

The Canadian Alliance for Sex Work Law Reform is made up of 26 sex worker rights groups across the country, the majority which are run by and for sex workers, serving thousands of sex workers across the county. Our members work to protect the rights and safety of people who sell or trade sex, including safety from labour exploitation and violence. We have extensive personal expertise mitigating interpersonal and state violence and labour exploitation, as well as knowing the impacts of anti-trafficking initiatives.

CONFLATING HUMAN TRAFFICKING AND SEX WORK HARMS SEX WORKERS

Human trafficking is a loaded term used to describe everything from intimate partner violence to sex work to labour exploitation. Increasingly we see conflation of different kinds of violence -- and things that aren't violence – packaged as human trafficking. When sex work itself is defined as an act of force and/or violence (i.e., human trafficking, sexual violence, sexual exploitation) and therefore defined as a form of sex trafficking, this trivializes actual incidences of violence and exploitation against sex workers and grossly overstates statistics. This consequently mandates law enforcement to surveil the lives of already criminalized communities. This conflation obscures responses to real structural problems of targeted violence, poverty, homelessness, housing, education. It is disingenuous to package these concerns and lack of opportunities as "human trafficking."

To understand the lived impacts of these conflations, particularly on the lives of the most marginalized Indigenous, migrant, Asian, and Black sex workers in our community, read the following (attached):

1. B Chapman-Schmidt, '"Sex Trafficking" as Epistemic Violence', *Anti-Trafficking Review*, issue 12, 2019, pp. 172 187, www.antitraffickingreview.org. **https://www.antitraffickingreview.org/index.php/atrjournal/article/view/384/325**

2. Butterfly. (2018a). *Behind the rescue: How anti-trafficking investigations and policies harm migrant sex workers*. Toronto: Butterfly (Asian and Migrant Sex Workers Support Network).

3. Butterfly. (2018b). *How migrant sex workers are harmed by anti-trafficking initiatives and policies.* Brief to the House of Commons Standing Committee on Justice and Human Rights on Human Trafficking in Canada. https://www.ourcommons.ca/Content/Committee/421/JUST/Brief/BR10005482/br-external/ButterflyAsianAndMigrantSexWorkersSupportNetwork-e.pdf

4. De Shalit, A., & van der Meulen, E. (2019). Thinking critically about human trafficking claims: Definitional and conceptual challenges. *Justice Report, 34*(3), 33-36.

5. Durisin, E., & van der Meulen, E. (2021). Sexualized nationalism and federal human trafficking consultations: Shifting discourses on sex trafficking in Canada. *Journal of Human Trafficking, 7*(4), 454-475.

6. Maynard, R. (2018). Do Black sex workers' lives matter? Whitewashed anti-slavery, racial justice, and abolition. In E. M. Durisin, E. van der Meulen, & C. Bruckert (Eds.), *Red light labour: Sex work, regulation, agency, and resistance* (pp. 281-292). UBC Press.

ANTI-TRAFFICKING POLICIES CAUSE VIOLENCE IN THE LIVES OF INDIGENOUS, BLACK, YOUTH, AND MIGRANT SEX WORKERS

Any measure of protection that relies on policing and surveilling our most marginalized communities to fulfill its mandate – the way anti-trafficking measures do – is neither protective nor equality seeking. Criminalization of already marginalized communities facilitates labour exploitation and trafficking by pushing people away from police and social services and into isolation where there are no legal or social protections. Anti-human trafficking initiatives are often anti-sex work initiatives, and sex workers and the people with whom they work are indiscriminately targeted for surveillance and investigation.

The criminalization of sex work means that anti-human trafficking initiatives embolden law enforcement agencies across Canada to regularly participate in mass, biased efforts to identify trafficking victims in the sex industry. These efforts continue to erode trust and increase antagonism between *all* sex workers and law enforcement. While all sex workers are affected by law enforcement initiatives and potential or actual police presence, the most marginalized sex workers in our community experience the brunt of those campaigns. Loitering laws, public space violations, Immigration provisions, sex work laws and drug laws are used to target Indigenous women and migrant women and they mandate police to *detect* not protect.

To understand the experiences of sex workers with law enforcement – and particularly how the intersection of enforcement of Immigration Law, Sex Work Law (PCEPA) and municipal by laws work together to criminalize and harm all sex workers, but specifically target Indigenous, migrant, Asian, and Black sex workers, read the following (attached):

7. Chu, S.K.H., Clamen, J., & Santini, T. (2019). *The perils of "protection": Sex workers' experiences of law enforcement in Ontario*. Canadian HIV/AIDS Legal Network.

8. 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*. Toronto: Butterfly & Canadian HIV/AIDS Legal Network. https://www.hivlegalnetwork.ca/site/caught-in-the-carceral-web-anti-trafficking-laws-and-policiesand-their-impact-on-migrant-sex-workers/?lang=en

9. Hunt, S. (2015). Representing colonial violence: Trafficking, sex work, and the violence of law. *Atlantis: Critical Studies in Gender, Culture, & Social Justice*, *37*(1), 25-39.

10. Kaye, J. (2017). *Responding to human trafficking: Dispossession, colonial violence, and resistance among Indigenous and racialized women*. University of Toronto Press.

11. Lam, E. (2018). *Survey on Toronto holistic practitioners' experiences with bylaw enforcement and police.* Butterfly (Asian and Migrant Sex Workers Support Network). https://576a91ec-4a76-459b-8d05-4ebbf42a0a7e.filesusr.com/ugd/5bd754_6d780ceba3cb4f6c85de4d3e9e0b7475.pdf

12. Millar, H., & O'Doherty, T. (2020). Racialized, gendered, and sensationalized: An examination of Canadian antitrafficking laws, their enforcement, and their (re)presentation. *Canadian Journal of Law and Society, 35*(1), 23-44.

13. SWAN Vancouver, 2020. Anti-Trafficking: Harming While Trying to Help Year: 2020 Description: 6 minute illustrated video raising awareness about the harms of anti-trafficking campaigns.

14. SWAN Vancouver. https://swanvancouver.ca/wp-content/uploads/2022/10/Harms-of-Anti-Trafficking-Video-Companion-Guide.pdf

RECOMMENDATIONS FOR A HUMAN RIGHTS BASED APPROACH TO ADDRESS EXPLOITATION AND VIOLENCE

The most effective way to end violence and exploitation is to listen to those who are experiencing and mitigating it within the context of criminalization and targeted violence.

Sex worker-led organizations are closest to the problems that sex workers experience and, as such, are closest to the solutions. They hold the knowledge, experience, and trust from sex workers to best determine *what* services sex workers need, *how* these services should be implemented, and above all, how to address violence in their lives. This Committee needs to center the perspectives and solutions put forward by people who are closest to the issues. Our

experiences of violence are often discounted and excluded from policies because we recognize the harms caused by criminalization and more state surveillance.

Recommendation 1: Remove criminal, immigration, and municipal laws and regulations.

Repeal the *Protection of Communities and Exploited Persons Act* (PCEPA): If any part of sex work itself is criminalized sex workers are unlikely to report.

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. that allow entry into predominantly migrant workspaces.

Repeal regulations in the *Immigration and Refugee Protection Regulations* (IRPR) that prohibit sex work. CBSA needs to stop "visiting" massage parlours. Immediately cease law enforcement raids and intrusions into sex workers' workplaces, and cease detention and deportation of migrant workers, including migrant sex workers. Instead, sex workers should be able to access rights, support and services without fear, stigmatize, surveillance and criminalized.

Expunge sex workers' records for sex work convictions that impede on economic and physical mobility.

Recommendation 2: Immediately ensure full and permanent immigration status for all in Canada, without exception; and provide everyone with access without fear to services.

Recommendation 3: Reframe funding initiatives so that they are not dependent on "human trafficking" frameworks.

Anti-trafficking services (including most "victim funds") are a barrier to sex workers' getting support. They often require sex workers to identify as "victims of human trafficking" or to "exit" sex work. This committee needs to 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. In this vein: Recognize sex work as work – sex work is not trafficking – this means investment in addressing labour exploitation and improving working conditions for sex workers.

Recommendation 4: Invest money into sex worker-led community initiatives – Indigenous, Black, and migrant sex worker led groups.

Defund police and reallocate human trafficking resources to settlement, social health, legal, housing, social services and supports without requirement to identify as trafficking. Sex workers need non judgemental programs that don't seek to minimize opportunities for sex work or abolish sex work or conflate sex with trafficking.