

**A Submission to the House of Commons Standing
Committee on Justice and Human Rights**

In Relation to its Review of the *Protection of Communities and Exploited Persons Act* (PCEPA)



Submitted by: Canadian Alliance for Sex Work Law Reform

February 21, 2022

Who is the Canadian Alliance for Sex Work Law Reform (CASWLR or “the Alliance”)?

Formed in 2012, the Alliance is composed of 25 member groups across Canada, including locations in Calgary, Edmonton, Hamilton, London, Longueuil, Montreal, Quebec, St. John’s, Sudbury, Toronto, Waterloo, Whitehorse, Winnipeg, Vancouver, and Victoria. Our member groups are primarily run by and for sex workers, each maintaining their own membership base and each serving sex workers in their region. Member groups deliver front line services and programming to sex workers, provide education, conduct research, and contribute to the Alliance’s position on law reform based on the needs expressed by sex workers in the communities that they serve. Alliance work is geared towards ensuring that sex workers are at the forefront of law reform initiatives that directly target and impact their lives and work. Together, the Alliance and these groups are accountable to tens of thousands of sex workers across Canada.

The Alliance’s expertise on the experiences of sex workers is widely recognized. Our member groups have direct experience and knowledge of the realities and experiences of sex workers in all parts of the sex industry, particularly those who work in the most repressive and limited conditions that result in part from the criminalization of sex work.

In 2015, when the federal Liberal Party promised to reform Canada’s sex work laws, because they recognized that the PCEPA was harmful,¹ our Alliance began a one-and-a-half-year consultation with its Member Groups, who in turn consulted with sex workers in their areas, to produce a set of over 50 recommendations that outlined our shared needs for reform of federal and provincial laws and policies. This report, which is appended to this submission, constitutes a human rights-based legislative framework for sex work.²

¹ Anna Gainey, President of the Liberal Party of Canada, expressly set out this position in a 2015 letter to the HIV Legal Network, one of the Alliance’s Member Groups: “With Bill C-36, the Conservative government passed legislation that fails to comply with the Supreme Court of Canada’s decision in the Bedford case, namely providing adequate protections for the health and safety of vulnerable people, particularly women. That is why the Liberal caucus opposed the bill in Parliament, and a Liberal government is committed to replacing this flawed, unconstitutional legislation. We believe that the Conservatives’ bill makes sex workers more vulnerable and prone to exploitation.”

² Canadian Alliance for Sex Work Law Reform. 2016. *Safety, Dignity, Equality: Recommendations for Law Reform*. www.sexworklawreform.com/recommendations

Who are sex workers?

People sell or trade sex for a variety of reasons, including money, food, clothing, drugs, shelter, paying off debts, and supporting their families. Others sell sex because it allows them to work flexible hours, balance other work and other commitments (such as education and family), and work as much or as little as they choose. Sex workers who identify as Indigenous, Black, racialized, trans, migrant, and workers with disabilities, have frequently detailed being excluded from other employment sectors due to multiple factors, including discrimination, racism, colonialism, stigma, immigration status, lack of gender affirming and identity concordant documentation, and previous criminal records. Sex work allows them to generate income and gain access to work, as they are excluded from other jobs. Many trans sex workers also share their experiences of sex work as affirming of their gender – both in terms of being seen and having their gender identity recognized, as well as being a means to access the community, information, resources, and health care required for their transitions. Sex work generates important income, which sustains their livelihoods.

No matter one's way of generating income, a person engaging in work should be able to consent to the conditions of their work, and engage in their work in a safe and secure environment. What is most unique to sex work is not the selling of sex, but having to do so in a context where sex work, communication, clients, working relationships and advertising are criminalized. In this context of criminalization, consent is difficult to establish, and occupational health and safety standards and labour protections are denied. Most other forms of labour are not met with these challenges.

IMPACTS OF PCEPA

PCEPA was sold to Members of Parliament and the public as a Canadian version of the “Nordic model” that seeks to “end demand” for the sale of sexual services. The claim that PCEPA would criminalize “pimps and johns” but not criminalize sex workers was neither fulfilled nor accomplished. It is impossible to criminalize any part of the sex industry, including clients and third parties, without directly harming and criminalizing sex workers.³ Rather, the criminalization of sex work contributes to the dangers sex workers experience. Despite the new legal framework of sex work *as* exploitation, no element of exploitation or coercion is required to arrest or charge someone with the sex work criminal offences, or to detain or deport someone for engaging in migrant sex work. This means that sex workers, clients, and third parties experience the harms of criminalization in many contexts where no exploitation exists.

Impact of Public Space Provision (s. 213.1)

One of the most significant misconceptions about the PCEPA is that only third parties and clients are impacted by the law. This is false. Section 213(1.1) prohibits communication for the purpose of providing sexual services for consideration in a public place, or in any place open to public view, that is or is next to a school ground, playground, or daycare centre. **The most marginalized sex workers who work on the street are directly targeted and affected by this prohibition.** Not only was a similar prohibition on communicating in public for purposes of prostitution (then s. 213(1)(c)) challenged and struck down by the Supreme Court of Canada in *Bedford* as unconstitutional, but clients are also criminalized anywhere and at any time under s. 286.1 of the PCEPA for attempting to

³ Decision on State Obligations to Respect, Protect, and Fulfill the Human Rights of Sex Workers (Amnesty International, December 12, 2012). <https://www.amnesty.org/en/policy-on-state-obligations-to-respect-protect-and-fulfil-the-human-rights-of-sex-workers/> (May 12, 2017).

obtain sexual services. This provision heightens the need for both sex workers and clients to rush negotiation and avoid explicit and clear communication as they avoid detection by law enforcement.⁴

Impact of the Purchasing Provision (s. 286.1)

Clients are criminalized anywhere and at any time under s. 286.1 of the PCEPA for attempting to obtain sexual services. This provision heightens the need for both sex workers and clients to rush negotiations and avoid explicit and clear communication as they attempt to avoid detection by law enforcement, making it more difficult for sex workers to communicate price, services, conditions and boundaries. Negotiations with clients in public space are rushed because clients are anxious and stressed about criminalization. Clients' fear of detection by police means that sex workers are unable to take sufficient time to screen potential clients before getting into cars, facilitating an environment where opportunities for clear communication are severely limited and it is difficult to establish agreement. **As an extensive body of research confirms, when clients are criminalized, sex workers are forced to operate in more dangerous environments, where they are unable to clearly communicate, negotiate, and safely engage with clients.**⁵

In both indoor and outdoor settings, section 286.1 of the PCEPA also displaces clients and therefore sex workers to isolated and unfamiliar areas in order to evade law enforcement. As a result, informal support networks among sex workers are weakened and it is more difficult for sex workers to support each other, including warning each other about abusive or violent predators posing as clients. It also makes it harder for frontline services to maintain contact with sex workers. This places sex workers' health and safety at risk.

Although the Supreme Court of Canada determined in *Bedford* that working indoors greatly decreased sex workers' vulnerability to violence, s. 286.1 provides grounds to evict sex workers from residential and commercial workspaces on the basis of engaging in ongoing illegal activity.

Sex workers who work indoors are also unable to properly screen clients who are reluctant to divulge information about themselves in advance of an engagement for fear of criminalization. When the terms of a sexual encounter are not clear and mutually established, this can lead to heightened frustration and sex workers face greater risk of client hostility or situations in which their boundaries are not respected. Where clients may have provided information about themselves before the PCEPA came into force, sex workers and managers report that they are now more reluctant to do so. The lack of meaningful screening exposes sex workers to unnecessary danger.

Section 286.1(1) also discourages clients from reporting violence, coercion, or exploitation against sex workers that they may witness for fear of criminalization. Many sex workers in our Alliance

⁴ Shannon, K., Kerr, T., Strathdee, S.A., Shoveller, J., Montaner, J.S., & Tyndall, M.W. (2009). Prevalence and structural correlates of gender-based violence among a prospective cohort of female sex workers. *BMJ*, 339, b2939. <https://www.bmj.com/content/bmj/339/bmj.b2939.full.pdf>; Lyons, T., Krüsi, A., Pierre, L., Small, W., & Shannon, K. (2017). The impact of construction and gentrification on an outdoor trans sex work environment: Violence, displacement and policing. *Sexualities*, 20(8), 881-903. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5786169/>

⁵ Belak, B. and D. Bennett. 2016. *Evaluating Canada's Sex Work Laws: The Case for Repeal*. Vancouver BC. Pivot Legal Society (page 41), see also Krüsi, A., Pacey, K., Bird, L., Taylor, C., Chettier, J., Allan, S., Bennett, D., Montaner, J.S., Kerr, T., and Shannon, K. 2014. Criminalization of clients: Reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada. A qualitative study. *British Medical Journal Open*, 4(6) 1154-9

member groups report that prior to PCEPA, clients were more willing to do this and would sometimes accompany sex workers to make reports.

Impact of third-party provisions (ss. 286.2, 286.3 and 286.4)

Sex workers work with a wide range of third parties. This includes people who provide initial screening, security and workspaces; drivers; website providers; agency owners or managers; receptionists; translators and others. Third parties may own businesses that sex workers work for, assist with health and safety protections, and provide customer services, similar to other businesses and service providers outside of the sex industry. Often, sex workers take on roles as third parties for one another. Various third parties provide unique services that cater to the different needs that exist among the diversity of sex workers. Many important relationships that sex workers need to work in health and safety are captured under ss. 286.2, 286.3, and 286.4. **Sex workers often report that they would prefer to work with a third party, rather than by themselves, as this would allow them to focus on the services that they provide and the implementation of personal safety mechanisms.**⁶

Many sex workers do not have the resources nor desire to work independently, including due to poverty, isolation, language barriers, lack of resources, family obligations, and technological proficiency. And yet, the PCEPA assumes that all sex workers have the ability to work alone and for themselves. Most jobs outside of the sex industry are designed to work for an employer who has some influence or control over schedules, pay, and working conditions; yet these relationships are prohibited for sex workers under the PCEPA. Sex workers who do work with others report that police and service agencies assume that they are being exploited, rather than in a legitimate working arrangement, despite the fact that these relationships and opportunities are often what helps them to develop resources and change their circumstances to avoid or leave situations of exploitation.

Sex workers incur the risks of criminalization through the PCEPA's prohibitions on procuring and receiving material benefit when helping each other secure a safe location for work. As a result, many are reluctant or unable to do so. For example, sex workers acting as third parties have reported booking hotel rooms on behalf of sex workers, who either do not have credit cards or the means, time, or ability to organize the location. When they do this, sex workers have been questioned upon arrival. Hotel staff have suspected that they are victimizing other sex workers because they have booked multiple rooms. Some sex workers report that when multiple rooms are booked on one credit card, hotels note this as a "red flag" for exploitation. It also means that sex workers are prevented from providing this kind of assistance to other sex workers, and other third parties are also reluctant to help sex workers secure a safe location to work. To minimize the risk of criminalization, sex workers who do continue to provide this assistance are required to help one another in more secretive and less effective ways, and often in isolation of one another.

Sex workers may work with their intimate partners in the course of their sex work, because they are familiar and part of their immediate community. Indigenous and Black sex workers have reported working with their partners on the street. However, their partners are subject to criminalization and

⁶ Bruckert, C., Parent, C. (eds.). 2018. *Getting Past the Pimp: Management in the Sex Industry*. Toronto, University of Toronto Press; Gillies, K., and C. Bruckert. 2018. "Pimps, Partners, and Procurers: Criminalizing Street-based Sex Workers' Relationships with Partners and Third Parties" in Durisin, E., van der Meulen, E., Bruckert, C. (eds.) *Red Light Labour: Regulation Agency and Resistance*. Vancouver. University of British Columbia Press; Hannem, S. and C. Bruckert. 2016. "'I'm not a pimp, but I play one on TV': The Moral Career and Identity Negotiations of Third Parties in the Sex Industry", *Deviant Behavior.*; Bruckert, C. and Law T. 2014. *Beyond Pimps, Procurers and Parasites: Third Parties in the Incall/Outcall sex industry*, Management Project, Ottawa, pp. 121.

may be viewed as exploitative when they are there to provide safety. Migrant sex workers report that when they engage community members to assist with technology and language translation, they have similarly incurred assumptions of exploitation. This makes it very difficult for sex workers to establish safety mechanisms in their work.

Because of the criminalization of third parties, sex workers have a difficult time negotiating their working conditions, as third parties are reluctant to engage in explicit discussions that risk evidence of their involvement in sex work. This impedes explicit communication with clients regarding services and screening, as well as communication with workers. As a result, occupational health and safety measures are not considered, such as access to contraceptives and safer sex supplies. If sex work was not criminalized, workers would be able to have discussions with their employers and co-workers to promote workplace safety. Sex workers are deprived of this opportunity.

Impact of the advertising provision (s. 286.4)

Advertising necessitates the engagement of third parties, including website providers to run sex workers' advertisements. However, under the PCEPA, every person who advertises a sexual service offered by someone else risks prosecution. Further, sex workers often need the assistance of other third parties to help with advertising, including assistance with developing their ads, accounts and publicity, and accessing credit cards. More marginalized sex workers frequently do not have access to these resources and skills. However, people who provide this support can be criminalized by the procuring, material benefit, and advertising offences. Third parties who knowingly advertise an offer to provide sexual services for consideration are criminalized under s. 286.4.

Among sex workers who have acquired the skills and resources to advertise, sex workers report the need to avoid clear communication in their online advertisements to ensure that they are not removed. Many online websites and newspapers now refuse to run sex workers' advertisements that contain clear language regarding their services and terms, due to the threat of criminalization, under s. 286.4 of PCEPA. Instead, if sex workers want to continue to advertise on third party platforms, they must do so through coded language. This is another factor that leads to uncertain terms between sex workers and clients.

The restrictions on third party advertising have resulted in some sex workers who have typically worked in indoor settings to shift their work to public spaces. Sex workers are displaced from one sector of the industry in which they have established protocols and a sense of familiarity, to another (i.e. public spaces) that is unfamiliar to them, where sex workers are also subject to increased surveillance and thus forced into isolated and unknown areas, as described above.⁷

Impact on Consent

In the context of a sex work transaction, consent is an ongoing process and requires agreement at different moments and around different elements of the work: services; location; price; duration; safer sex practices; and boundaries. Consent and workplace safety are jeopardized by the criminal provisions. This interferes with sex workers' personal and sexual autonomy, and increases their vulnerability to violence and exploitation.

⁷ Sterling, Andrea. 2018. New Risk Spaces, New Spaces for Harm: The Effects of the Advertising Offence on Independent Escorts, 94–103. In *Red Light Labour: Sex Work Regulation, Agency, and Resistance*, ed. Elya M. Durisin, Emily van der Meulen, and Chris Bruckert. Vancouver, BC: University of British Columbia Press.

PCEPA has compromised sex workers' ability to establish consent. Sex workers have consistently communicated that their safety depends on their ability to clearly and freely communicate in both outdoor and indoor settings. **Communication is critical, as it allows sex workers and their clients to agree on what sexual services will and will not be provided, under what conditions, the type and amount of compensation, the point at which an encounter ends, and what happens if the appointment goes over time.** The communication of terms might include a requirement that certain places on an individual's body are not to be touched, that there will be no kissing, or that a condom be used. Communication allows boundaries to be clearly set and understood by all parties. All of this informs the terms of service, which are critical to establishing and maintaining consent throughout a sexual encounter.

While establishing and maintaining consent are viewed as critical to any sexual encounter, including in the context of sex work, ss. 213(1), 213(1.1), 286.1, 286.2, 286.3, and s. 286.4 undermine sex workers' ability to clearly negotiate, communicate, and establish the terms of their consent to sexual activities to relevant parties, such as potential clients as well as people with whom they work. The criminalization of sex work also has enormous impacts on sex workers' working conditions, and consequently the contexts and conditions in which they negotiate consent. These prohibitions deny the personal and sexual autonomy and agency of sex workers, and put sex workers in unnecessary danger.

Inability to report crimes

PCEPA's depiction of sex workers as victims has changed sex workers' interactions with police. While they continue to be surveilled by police, some sex workers (often white, cis women) report that they are now approached by police who seek to monitor their interactions with potential clients and third parties under the guise of "protection". As a result, sex workers' interactions with police continue to be antagonistic and sex workers avoid them at all costs. Antagonism extends *beyond* the threat of arrest, and includes constant surveillance by and unsolicited interactions with police. These police encounters happen in both indoor and outdoor work spaces.

For sex workers who are already known to police because of their presence in public space (e.g. sex workers who are homeless and live in public spaces) or because they are profiled because of their race or gender identity (e.g. Black, Indigenous, and trans sex workers), it is even more difficult to pursue their work openly in public spaces. Police surveillance of these sex workers is pervasive and rarely protective. Homeless, trans, Black and Indigenous sex workers who work in public spaces are profiled and targeted by police as a threat to the community. While sex workers frequently report to Bad Date Lists and other online community forums for sex workers, they rarely report to police. Under the PCEPA, sex workers express their reluctance to report crimes against them to police because it flags them as sex workers and increases the risk of future surveillance.⁸ When racialized and trans sex workers attempt to report crimes, this has frequently resulted in their own arrest for various crimes (e.g., trespassing, assault), further discouraging them from contacting police.

Impact on surveillance of sex workers

⁸ Crago, A.L., Bruckert, C., Braschel, M. and Shannon, K. (2021). "Sex workers access to police protection in safety emergencies and means of escape from situation of violence and confinement under and "end demand" criminalization model: A five city study in Canada" *Social Sciences*.10(1), 13)

Member groups report countless incidents where law enforcement agents utilize the provisions to investigate people and locations (physical and online) suspected of being involved in sex work. Sex workers try to evade police because their presence undermines sex workers' ability to work and to work safely, clients try to evade police for fear of criminal repercussions, and third parties attempt to evade police for fear of criminal repercussions, and are consequently reluctant to discuss safety measures with sex workers. Therefore, increased surveillance causes sex workers to work in isolated and unsafe conditions.

Impacts specific to Indigenous women who sell or trade sex

Indigenous sex workers in our Member Groups are living the impacts of historical and continued colonization, which has rendered many Indigenous sex workers homeless, displaced, in poverty, and lacking access to non-discriminatory and relevant supports including healthcare. Sex work is one way that Indigenous sex workers are able to provide for their needs, in a context where it is difficult for them to secure income elsewhere. Indigenous sex workers also share that sex work is one way that they are able to exercise their self-determination and their agency. In addition to aforementioned structural factors that Indigenous sex workers face, Indigenous sex workers often report that the PCEPA is used to target them. One of the stated objectives of PCEPA to “ensure consistency between prostitution offences and the existing human trafficking offences”. This objective confirms that human trafficking frameworks are being applied to sex work, and it has had a particularly profound impact on Indigenous sex workers (as well as migrant sex workers).

Indigenous women disproportionately experience targeted violence, and the criminalization of sex work and lack of support for Indigenous sex workers increase the chances that predators seek out Indigenous women for violence. The prohibitions on the purchase of sexual services and public communication for the purpose of obtaining sexual services push Indigenous sex workers into isolated and unfamiliar areas. In these areas, Indigenous sex workers share that they are more vulnerable to predators who take advantage of their distrust of police, and the dismal police response to violence against Indigenous women, which allows predators to seek out Indigenous women for violence. The third party prohibitions also criminalize Indigenous sex workers and their relationships with other people, even when these relationships are not exploitative. Indigenous sex workers rely heavily on family members to perform safety enhancing roles, like providing rides to and from other regions, because they are trusted and part of their community. The procuring and material benefit prohibitions criminalize their relationships, even when they are not exploitative. Additionally, when Indigenous sex workers work for escort agencies, they are concerned that third parties are unable to fully implement security protocols because of the limitations produced by these provisions.

Criminalization of sex work has a direct impact on Indigenous sex workers' ability to report crimes against them. Most Indigenous women will not go to the police under any circumstances. In fact, Indigenous sex workers share that they spend a significant amount of their energy trying to avoid police who are often surveilling public space and scrutinizing Indigenous sex workers for criminal offences. **While the historical and continued impacts of colonization have eroded the possibility of Indigenous sex workers' trust in police, the sex work provisions and the consequent need to avoid arrest of themselves, their clients, or the people they associate and work with, is a further reason Indigenous sex workers avoid police, even in cases where they are themselves victims of a crime.**

Police often approach Indigenous women under the guise of “protection” assuming that they are “exploited” and therefore “trafficked”. This expectation of exploitation is not only a denial of their

self-determination and decision making,⁹ but the resulting unrelenting police surveillance prevents them from taking vital safety measures, such as screening and working with other people, including third parties. Criminalization and intensified scrutiny by police also displace Indigenous sex workers to isolated areas and distance sex workers from those who could protect and assist them.¹⁰

Many of our member groups that work predominantly with Indigenous sex workers spend a lot of time educating service providers in their region about the realities of Indigenous sex workers in our communities, so that Indigenous sex workers can access safe and non-judgmental services. The assumption or language used by many social service organizations that all Indigenous women are “exploited” has created substantial barriers for Indigenous sex workers to exercise their agency and be treated with dignity. Indigenous sex workers testified to this at the National Inquiry into Missing and Murdered Indigenous Women and Girls, “Indigenous women and individuals of diverse gender identities and sexual orientation hold bodily self-determination, autonomy and choice. The National Inquiry must not assault the truths, experience or bodies of Indigenous women by negating or erasing their capacity to consent or to choose. The concept of choice for all Indigenous peoples exists within the structures of colonialism.”¹¹

The criminal provisions also impact Indigenous sex workers’ access to social services and programs. Some programs offered by non-profit organizations or anti-trafficking organizations require that those accessing supports identify as “victims” or pressure participants to “exit” sex work in order to access services. The inability to access conventional social services are why sex-worker led organizations, like those that comprise the Alliance, are so vital. Indigenous sex workers have advised that they are best placed to understand their own circumstances and make decisions on that basis.

The presumption of exploitation erases the experiences of Indigenous sex workers and the self-determination they exercise with respect to their bodies. It has promoted the idea that Indigenous women are victims who are unable to exercise their agency.¹² The assumption of exploitation inherent in the PCEPA has deeply influenced the initiatives provided by government and non-profit organizations to address violence against Indigenous women. It has led to prioritizing funding for law enforcement strategies that increase over-policing in Indigenous communities, instead of much needed investments in peer-led programs that allow Indigenous people selling or trading sex to exchange knowledge and support each other in self-determined ways.

Impacts on Migrant Sex Workers

Sex workers who are im/migrants experience many harms from the criminalization of sex work. Migrant sex workers are also impacted by the human trafficking framework that is so closely linked to PCEPA. Victim narratives fostered by PCEPA compound stereotypes regarding migrant sex workers’ lack of agency and as a result, im/migrant sex workers are mistakenly assumed to be “trafficked victims”. **Because their work is mistakenly perceived as “sexual exploitation,” the sex work offences have been used in conjunction with trafficking-related offences to target migrant sex work spaces and consequently target migrant sex workers for detention and deportation.**

⁹ Lanna Moon Perrin’s testimony to the National Inquiry into Missing and Murdered Indigenous Women and Girls, dated October 17, 2018

¹⁰ Stella’s report to the Viens Commission in Quebec, dated October 15, 2018

¹¹ Vancouver Sex Workers Rights Collective written submission to the National Inquiry into Missing and Murdered Indigenous Women and Girls, dated December 14, 2018 at para. 20.

¹² Briarpatch (2020) Adrienne Huard and Jacqueline Pelland’s article “Sexual Sovereignty”.

The criminalization of third parties has also made working environments more difficult. Third parties **are critical supports in migrant sex workers' lives; not only do third parties support them in their work life, they also have useful knowledge about the local community.** Third party support is especially important for migrant sex workers whose first language is not English or French, who may be unfamiliar with local practices, and who lack an existing network of supports on which to rely. Migrant sex workers often rely on third parties to, for example, help organize and support their work, translate and place their advertisements, or to run sex work establishments for which they work. Migrant sex workers' safety and security are threatened when sex work establishments are raided by law enforcement in order to arrest third parties, and migrant sex workers have themselves been detained and arrested for third party and human trafficking offences when they work with, gain material benefits from, and assist other sex workers to work in Canada. The consequences they report have included loss of income, eviction, criminal charges, and deportation.

Additionally, the criminalization of clients has severely limited migrant sex workers' capacity to negotiate, discuss boundaries, and establish consent to sexual services with clients. Because clients enter into sex work establishments fearful of being arrested, they are reluctant to provide information about themselves or to discuss in advance the terms of the service, which can lead to misunderstanding and a greater risk of altercations.

The criminalization of sex work combined with immigration regulations that prohibit im/migrant women from working in the sex industry means that migrant sex workers are constantly surveilled and policed.

PCEPA provides an opportunity for predators to exploit migrant sex workers, because of their precarious legal status and the risk of arrest and deportation for engaging in sex work. Predators target migrant sex workers knowing that very few will report to police, due to their fear of being charged with a crime or immigration offence or being deported.

The assumption or language used by many social service organizations that all migrant sex workers are "trafficked" and "exploited" victims erases migrant sex workers' agency and creates additional barriers to their ability to support themselves. This has deeply influenced the initiatives provided by government and non-profit organizations to address violence against migrant women. Migrant sex workers often have to assume the narrative of a victim in order to access health and social services. The assumption of exploitation inherent in policies including PCEPA has also led to prioritizing of funding for law enforcement strategies that increase over-policing in migrant communities.

FAILURE OF THE PCEPA IN DECREASING SEX WORK

Despite the challenges and multiple harms that the sex work offences have created for sex workers, sex workers report that the PCEPA has not stopped them from working. Rather, as detailed above, it has severely limited their ability to work safely and securely, and in a manner that promotes their personal and sexual autonomy. A major event that has impacted sex workers' ability to work has been the COVID- 19 pandemic, as all businesses shut down for lengthy periods, thereby necessitating a temporary pause on sex work in spaces like massage parlours and strip clubs. But even during the pandemic, sex workers found creative ways to engage and draw income by selling or trading sex. Some sex workers moved to online sex work when the pandemic limited their ability to engage in person. Now that pandemic restrictions are lifting, there is a resumption of more traditional forms of in-person sex work.

RECOMMENDATIONS:

Our recommendations to the Standing Committee on Justice and Human Rights with respect to its PCEPA review are simple:

1. Remove all sex work-specific criminal laws, including those in the PCEPA, as well as immigration laws and regulations prohibiting migrant sex work;
2. Apply laws of general application to address instances of violence and exploitation against sex workers, such as laws against kidnapping, theft, robbery, extortion, intimidation, criminal harassment; and
3. Apply a labour and human rights framework that engages provincial/territorial legislation including employment standards and occupational health and safety legislation.

Decriminalization and the repeal of all sex work offences, including the provisions in the PCEPA, is a first step. Decriminalization alone cannot overcome all of the injustices that many of us face, but it is a necessary step to respecting, protecting and fulfilling sex workers' rights. Many Canadian laws contribute and reinforce inequality, disadvantage and discrimination based on, among other factors, class, race, gender, citizenship status, colonization, mobility, and mental health. Beyond the removal of sex work criminal and immigration laws, concrete measures must be adopted to address discrimination and inequality of various kinds, poverty, inadequate housing, inadequate healthcare, lack of access to safe transportation, inadequate access to legal aid, over-criminalization and over-incarceration, and ongoing problems with youth protection systems.

Law enforcement and the public take instruction from the laws on how to treat sex workers. This instruction has never been more harmful than under the PCEPA. If we teach society that sex work is inherently violent and exploitative, and that sex workers are inherent victims and should expect violence in their lives, then it invites violence into sex workers' lives. We believe that sex workers have the right to expect better.

Alliance member organizations include: Action santé travesti(e)s et transsexuel(le)s du Québec (ASTT(e)Q) (Montreal); ANSWERS Society (Edmonton); BC Coalition of Experiential Communities (BCCEW); Butterfly Asian and Migrant Sex Work Support Network (Toronto); HIV Legal Network; Émissaire (Longueuil); Maggie's Toronto Sex Workers' Action Project; Maggie's Indigenous Sex Work Drum Group; PEERS Victoria; Projet L.U.N.E. (Québec); Prostitutes Involved Empowered Cogent Edmonton (PIECE) (Edmonton); PACE Society (Vancouver); Rézo, projet travailleurs du sexe (Montreal); Safe Harbour Outreach Project (SHOP) (St John's); SafeSpace (London); Sex Workers' Action Program Hamilton (SWAPH); Sex Professionals of Canada (SPOC); Sex Workers' Action Network of Waterloo Region (SWAN Waterloo); Sex Workers of Winnipeg Action Coalition (SWWAC); Sex Workers United Against Violence (SWUAV) (Vancouver); Shift Calgary, HIV Community Link; Stella, l'amie de Maimie (Montreal); SWANS Sudbury; SWAN Vancouver; and SWAP Yukon (Whitehorse).

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