

BRIEF SUBMISSION TO THE STANDING COMMITTEE ON THE STATUS OF WOMEN: STUDY ON HUMAN TRAFFICKING OF WOMEN, GIRLS, AND GENDER DIVERSE PEOPLE

Shift Calgary, SafeLink Alberta
April 28, 2023

Our Work

Shift, a program of SafeLink Alberta (previously HIV Community Link) since 2009, is a rights-based and harm reduction program for adults currently or formerly involved in sex work. Among many other services, Shift supports current or former sex workers with basic needs, case management, safety, testing for sexually transmitted and blood borne infections (STBBIs), advocacy, and education. Shift and SafeLink Alberta stand in solidarity with sex workers and support the full decriminalization of sex work.

Human Trafficking

The focus on sex work in conversations surrounding human trafficking has led to a moral panic that fuels anti-sex work policy, stigma, and sentiment (McRae, 2016). The most common form of trafficking is labour trafficking (Act Alberta, 2021). Sex trafficking is the sole focus in these conversations which is not only a disservice to sex workers, who are used as the scapegoat, but also to survivors of human trafficking. The few resources allotted for human trafficking are hugely dedicated to sex trafficking, as evidenced by the research of this committee, which removes resources from those who are most impacted by trafficking, largely migrant labourers (McRae, 2016). Human trafficking is a real, heinous, and terrible occurrence, and the deliberate focus on sex trafficking alone is irrevocably harmful to sex workers and makes real occurrences of trafficking more difficult to identify.

The hypervisibility of sex trafficking versus all human trafficking, and the conflation of sex trafficking with sex work, creates an environment that is unsafe for all. It is of utmost importance that in conversations surrounding trafficking, we consider how we are using the terms, and what we truly mean when using them. The current concepts are poorly defined in law (Sibley & Van Der Meulen, 2022), which leads to convoluted and misplaced conversations and policy.

Human trafficking involves action, means, and purpose (Canadian Council for Refugees (CCR), 2020). People who are most vulnerable to all trafficking include those without legal status in Canada, those with low income and precarious housing, and those with language barriers (CCR, 2020). Criminalizing sex workers will not and has not reduced any form of human trafficking (Albright & D'Adamo, 2017); it has instead maintained the poor working conditions of sex workers, and has made it difficult to identify and support those who are being trafficked in all industries.

In line with the focus of this committee, we will be discussing sex trafficking. However, it is a dangerous disservice to ignore the reality of labour trafficking in Canada. We urge the committee

to consider why it is that sex trafficking is the sole item under investigation, when it is not only a deeply violent conversation when discussed as sex work, but when it also ignores the reality of trafficking that is prevalent in other industries.

The Impact of Criminalization of Sex Work on Trafficking

The criminalization of sex workers, which is done under guise that sex work is trafficking, harms communities. Criminalization forces sex workers to work under unfit conditions, makes it difficult to report labour violations, and furthers the narrative that sex workers are victims and their clients are evil (Crago, Brukert, Braschel, & Shannon, 2021). Research (Albright & D'Adamo, 2017) shows that human trafficking is not decreased with the presence of end-demand legislation - instead, by pushing sex work underground and rendering it invisible, it becomes increasingly difficult to notice the signs and differences between sex work and trafficking, thus harming both sex workers and people being trafficked.

Sex work in Canada is criminalized, despite the selling of sex being considered legal. This committee will hear claims that sex work is decriminalized due to this provision. However, when clients and 3rd parties are criminalized, sex workers are inherently involved in criminal activity. This criminalization of sex work creates circumstances that can be exploited by traffickers, law enforcement, landlords, and members of the public. Additionally, criminalization of sex work and the increase of police surveillance has a disproportionately harmful impact on Black, Indigenous, and Transgender sex workers (Crago et al., 2021). Enforcement of the Protection of Communities and Exploited Persons Act (PCEPA) has been and will continue to be harmful to sex workers, particularly to those who are already over-policed.

Discussions around sex work and trafficking often suggest that sex workers don't know they're being trafficked, and therefore they must be saved. This is a patronizing and condescending narrative that further strips the agency from sex workers. Sex workers are our biggest allies in spotting sex trafficking, because sex workers know the difference between sex work and sex trafficking (Crago et al., 2021). The criminalization and isolation of sex work is a disservice to all. Not only does criminalization create unfit working conditions for sex workers, it *increases* trafficking (Albright & D'Adamo, 2017). After the implementation of PCEPA, sex workers are less able to negotiate terms, conditions, and boundaries with clients who fear being criminalized, thus increasing risk of STBBI transmission in addition to increasing risk of violence (Argento, Goldenberg, Brashel, Machat, Strathdee, & Shannon, 2020). When legislation forces sex workers into exploitative working conditions, exploitation can more easily occur – sex work is not exploitative, the working conditions created by policies and social attitudes is.

PCEPA has been independently correlated to the reduction of sex workers accessing health and community-led services, and it has had no significant impact on whether sex workers access counselling support (Argento et al., 2020). PCEPA does not support the communities it claims to be protecting.

Sex work stigma is deadly (Kourtaki, 2023), and it is furthered by anti-sex work campaigns masked as anti-trafficking.

Migrant Rights

The precarious legal status of temporary and migrant workers creates an environment of vulnerability which can be easily exploited by employers, in addition to limiting access to health care and social services (Goldring & Landolt, 2021). Migrants, advocates, and academics have been calling for Status For All and for access to all municipal, provincial, and federal services without fear of persecution or deportation (Goldring & Landolt, 2021).

The majority of migrants without documentation are those who had temporary residence status and have stayed past its expiry (Standing Committee on Citizenship and Immigration, 2022) The process to gain permanent residency from a temporary one is unclear and is largely inaccessible. When migrant workers arrive with temporary residency, there is an immediate need to compromise working conditions due to their legal status. When the residency expires, the conditions are worsened as the additional threat of deportation has been introduced. The conditions placed on migrant workers contributes to the exploitation of this population. The Standing Committee on Citizenship and Immigration has acknowledged that “undocumented migrants live in fear of being detected and removed, and many are extremely vulnerable due to their very limited access to health care and social services” and that “undocumented work situations are known to present higher risks for employer abuse and exploitation due to informal work agreements that make accessing labor protections difficult. Undocumented workers are unlikely to report abuse to authorities for fear of deportation” (November, 2022). Given that the Standing Committee on Citizenship and Immigration has itself acknowledged that the current conditions for migrant workers are facilitating exploitation, it is clear that Status For All is a necessary action to be taken.

Migrant workers in the sex industry are further criminalized in Canada (Fudge et al., 2021). According to the Immigration and Refugee Protection Regulations (SOR/2002-227), temporary residents may not offer striptease, erotic dance, escort services, or erotic massages. The only basis for this unique exclusion of migrant workers from the sex industry is the conflation of sex work with trafficking. The real and rational fear of deportation does not create safety for migrant sex workers, nor does it prevent sex trafficking. Instead, it provides rationale for raids targeting massage parlours, further pushes migrant workers away from health, social, and economic wellness access, and forces migrant workers to choose between working in secrecy or risking deportation. The criminalization of migrant sex workers does not serve any community – it reinforces dangerous working and living conditions.

Recommendations

Our recommendations to the Committee on the Status of Women are as follows:

- Immediately repeal PCEPA (Bill C-36), sections 183(1)(b.1), s.196.1(a), s.200(3) (g.1), s.203(2)(a) of the Immigration and Refugee Protection Regulations, and all municipal bylaws and provincial legislation that criminalize sex work.
- Invest time and funding to the improvement of working conditions and labour rights of sex workers.
- Consult meaningfully with sex workers and migrants on any proposed actions.
- Provide full access to services and supports to residents regardless of legal status.
- Grant equal rights and permanent resident status for all undocumented people, migrant workers, families, and refugees.

Conclusion

Time and time again, sex workers and researchers have been insisting and demonstrating that the decriminalization of sex work is necessary to ensure full and equitable access to justice and human rights. Sex workers deserve labour rights and human rights, they deserve the opportunity to report bad employers, they deserve fair working conditions, they deserve to be loved, to be seen, and to be heard. So long as sex work is conflated with trafficking, violence and death will continue along with it. We urge the committee to make recommendations that promote the rights of all.

Shift is a harm-reduction and rights-based program for people currently or formerly in the sex industry. Shift meets clients where they are at and offers support and services appropriately. As a harm-reduction program, we believe that there are risks associated with all activities in life, and as such it is a right to be able to engage in these activities in the safest manner possible.

Shift is a program of SafeLink Alberta, an agency that began as AIDS Calgary in the 1980. Today, SafeLink Alberta aims to create inclusive, empowered, and healthier communities.

References

- Albright, E., & D'Adamo, K. (2017). Decreasing Human Trafficking Through Sex Work Decriminalization. *AMA Journal of Ethics*, 19(1), 122-126.
- Amnesty International. (2016). *Sex Workers at Risk: A Research Summary on Human Rights Abuses Against Sex Workers*.
<file:///C:/Users/hanako.rodgers/Downloads/POL4040612016ENGLISH.pdf>
- Amnistie Internationale. (2022). *Aperçu 2022 des droits humains au Canada: reviver l'espoir et combattre les injustices*. https://amnistie.ca/sites/default/files/2022-09/AI-Apercu_Droits_Humains_2022-Final.pdf
- Argento, E., Goldenberg, S., Braschel, M., Machat, S., Strathdee, S., & 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), DOI: <https://doi.org/10.1371/journal.pone.0225783>
- Canadian Council for Refugees. (2020). *Human Trafficking and the Law: How to Protect Trafficked Persons – A guide for Legal Practitioners*.
<https://ccrweb.ca/sites/ccrweb.ca/files/human-trafficking-and-the-law-a-guide-web.pdf>
- Crago, A., 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(13). DOI: <https://doi.org/10.3390/socsci10010013>
- Fudge, J., Lam, E., Ka Hon Chu, S., & Wong, V. (2021). *Caught in the Carceral Web: Anti-trafficking laws and policies and their impact on migrant sex workers*.
https://www.butterflysw.org/files/ugd/5bd754_71be1154f6ff4bbb94a03ed7931a32df.pdf
- Goldring, L., & Landolt, P. (2021). *Status for all: Pathways to permanent residency in Canada need to include every migrant*. In *The Conversation*, published April 15, 2021.
<https://theconversation.com/status-for-all-pathways-to-permanent-residency-in-canada-need-to-include-every-migrant-157855>
- Immigration and Refugee Protection Regulations, SOR/2002-227. Retrieved from: <https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/>
- Kourtaki, E. (2023). Challenging Stigma and Violence: Exploring the Complex Relationship Between Societal Attitudes, Sex Work and Serial Killing. *Social Science Research Network*. <https://ssrn.com/abstract=4376523>
- McRae, K. (2016). *Holding Tight to a Double-Edged Sword: Labour Trafficking in Edmonton*.
https://assets.website-files.com/628540859fb068b8b4e19480/635e8bb4c4ac251c6311b450_ACT_EdmLabourTraffickingReport_2017_v1.pdf

Migrant Rights Network. (2022). *Request for a meeting on Regularization and permanent resident status for all*. https://migrantrights.ca/wp-content/uploads/2022/08/August-26-2022_Regularization-Letter.pdf

Sibley, M. & van der Meulen, E. (2022). Courting Victims: Exploring the Legal Framing of Exploitation in Human Trafficking Cases. *Canadian Journal of Law and Society*, 37(3), pp. 409-429.

Standing Committee on Citizenship and Immigration, Government of Canada. (November, 2022). Undocumented Migrants. Retrieved from: <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/transparency/committees/cimm-nov-18-2022/undocumented-migrants.html>