

## **Freedom United's written brief submission to the Standing Committee on the Status of Women**

**Topic:** Human trafficking of women girls and gender diverse people in Canada

This written brief is being submitted by Freedom United,<sup>1</sup> an international anti-trafficking NGO, in response to the Standing Committee on the Status of Women's undertaking of a study on human trafficking in Canada. Given the explicit reference to "undertake a study on human trafficking of women, girls, and gender-diverse individuals for sexual exploitation in Canada", this submission will only focus on this one form of trafficking.

### **Separating trafficking for sexual exploitation from sex work**

Sex work describes an informed transaction between consenting adults engaging in sexual activities. Like in other labour sectors where trafficking and forced labour occur, trafficking for sexual exploitation happens when coercion, threat and manipulation are present, and the threshold is met under the definition set out in the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children.<sup>2</sup>

Regulatory regimes governing sex work fall under four broad approaches: partial/full criminalisation, legalisation, 'end demand' models also commonly known as the Nordic model, and decriminalisation. Under criminalisation approaches, the sale of sexual services and surrounding activities are criminalised.

Under the Protection of Communities and Exploited Persons Act (PCEPA),<sup>3</sup> in Canada, while the sale of sexual services is legal, surrounding activities are criminalized. These include the purchase of sexual services, and the criminalization of third parties which would include anyone supporting a sex worker in their job such as a receptionist.

In practice, criminalisation models fail to protect sex workers from trafficking and exploitation, prevent trafficking victims from seeking support from authorities, and there is no evidence to suggest that the demand for trafficking for sexual exploitation is reduced under partial criminalisation models.<sup>4</sup> As UNAIDS notes, "The legal status of sex work is a critical factor defining the extent and patterns of human rights violations, including violence against sex workers. Where sex work is criminalized, violence against sex workers is often not reported or monitored, and legal protection is seldom offered to victims of such violence".<sup>5</sup>

Under criminalisation models, sex workers are forced to take high-risk decisions on clients in short spaces of time due to pressures on clients who are criminalised. This creates a dynamic of increased dependence on clients that disempowers sex workers. Thus, sex workers' bargaining power with clients is diminished and they may be forced to accept clients they may have otherwise rejected for fear of violence, abuse or exploitation.<sup>6</sup>

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<sup>1</sup> <https://www.freedomunited.org/>

<sup>2</sup> <https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>

<sup>3</sup> [https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2014\\_25/page-1.html](https://laws-lois.justice.gc.ca/eng/AnnualStatutes/2014_25/page-1.html)

<sup>4</sup> [https://make-the-switch.org/wp-content/uploads/2021/10/ImpactofEndDemand\\_Final\\_0921.pdf](https://make-the-switch.org/wp-content/uploads/2021/10/ImpactofEndDemand_Final_0921.pdf) ; <https://www.opendemocracy.net/en/beyond-trafficking-and-slavery/long-read-how-nordic-model-france-changed-everything-sex-workers/>; <https://www.amnesty.org/en/wp-content/uploads/2022/02/EUR2951562022ENGLISH.pdf>; <https://www.opensocietyfoundations.org/voices/false-promise-end-demand-laws>

<sup>5</sup> <https://www.unaids.org/en/resources/documents/2014/Sexworkers>

<sup>6</sup> <https://www.swarmcollective.org/blog/2019/9/20/nordic-model-in-northern-ireland-a-total-failure-no-decrease-in-sex-work-but-increases-in-violence-and-stigma>; Mac. J., Smith. M., (2018). *Revolting prostitutes. The fight for sex workers' rights*. London, Verso Books; [https://www.unaids.org/sites/default/files/media\\_asset/06\\_Sexworkers.pdf](https://www.unaids.org/sites/default/files/media_asset/06_Sexworkers.pdf)

## Holistic approaches to tackling trafficking for sexual exploitation

As an international anti-trafficking NGO, Freedom United recognizes that human trafficking occurs often at the intersection of vulnerabilities and the lack of rights. Stopping human trafficking requires structural changes and policies that directly address these risk factors.

The UN Human Rights Office of the High Commissioner has explicitly called for states to mitigate vulnerabilities to human trafficking created by weak enforcement of ensuring rights-holders' access to social, economic and labour rights that must be realised if anti-trafficking frameworks are to be effective.<sup>7</sup> Amongst these, taking measures to alleviate poverty and "legal and social measures to ensure labour rights, including a minimum wage that enables an adequate standard of living"<sup>8</sup> are recommended approaches to building communities' resilience to trafficking.

Ensuring sex workers are protected under national labour laws would help protect these workers from trafficking and empower victims to seek support from authorities.

As noted in the Convention on the Elimination of All Forms of Discrimination against Women's general recommendation No. 38: "Where workers are organized, **where labour standards for wages, working hours and conditions and health and safety are monitored and enforced** and where economic and social rights, as well as changes to tax laws so that States can finance the public services that women need, are adequately implemented, **the demand for the labour or services of trafficked persons is markedly lower.**"<sup>9</sup>

## Recommendations

Freedom United agrees with the Canadian Alliance for Sex Work Law Reform's recommendation to "[remove] sex work-specific criminal provisions [as] an urgent and effective first step to respect, protect and fulfill the human rights of sex workers."<sup>10</sup>

Freedom United strongly recommends that the Government of Canada adopt legislation that is not centered on a punitive, law enforcement approach primarily focused on stopping trafficking for sexual exploitation. A truly comprehensive anti-trafficking strategy should focus on efforts to build resilience to human trafficking in all forms and direct resources towards community-based organizations rather than law enforcement.<sup>11</sup>

This submission recommends that the Government of Canada review the regulatory regime governing sex work and pass legislation to fully decriminalise sex work, including the decriminalisation of clients and third parties, to support a human rights-based anti-trafficking strategy.

## Further reading and resources:

[Why decriminalizing sex work will help to end trafficking: Canada in a global context](#)

[By us, for us: a needs and risk assessment of sex workers in the Lower Mainland and Southern Vancouver Island](#)

[Freedom United's submission voicing concerns about Ontario's Combating Human Trafficking Act 2021](#)

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<sup>7</sup> [https://www.ohchr.org/sites/default/files/Documents/Publications/FS36\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf)

<sup>8</sup> [https://www.ohchr.org/sites/default/files/Documents/Publications/FS36\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/FS36_en.pdf)

<sup>9</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N20/324/45/PDF/N2032445.pdf?OpenElement>

<sup>10</sup> <http://sexworklawreform.com/wp-content/uploads/2017/05/Executive-Summary.pdf>

<sup>11</sup> <https://www.freedomunited.org/freedom-united-voices-concerns-over-ontarios-anti-trafficking-bill-251/>

[Freedom United's analysis of the Robert Kraft case and the impact of misidentifying sex workers as trafficking victims](#)