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To: Chair Karen Vecchio, MP, Standing Committee on the Status of Women Canada's House of Commons, 44th Parliament, 1st Session

Brief on Human Trafficking of Women, Girls and Gender Diverse People

Submitted by **Legal Assistance of Windsor and Ministry for Social Justice, Peace, and Creation Care with the Sisters of St. Joseph of Toronto**

Introduction

Human trafficking is a complex series of events rooted in social inequalities and exploitive colonial and neo-liberal structures. The experiences of people subjected to this form of violence are complex, dynamic, and a result of structural injustices. For example, eroded provincial and federal supports push people further into poverty. The high cost of living, insufficient housing and a lack of financial and mental health support lead people to take risks with potentially harmful consequences. Migrants in dire socio-economic circumstances are pressured to work in Canada under unjust temporary work programs and in exploitive work conditions. Those experiences are compounded by individual intersecting oppressions based on race, gender, class, ability and others.

However, the current human trafficking discourse is dominated by single-story narratives based solely on individual vulnerabilities reducing those complexities to one-dimensional experiences. The result of ignoring these systemic factors is the development of policies meant to address human trafficking based on individual vulnerabilities rather than dismantling structural injustices leading to exploitation and trafficking. For example, the changes made to the Ontario Housing Services Act expanding access to priority housing to trafficked persons continue to exclude those who are not Canadian citizens or permanent residents.¹ Therefore, migrants who have been issued a temporary resident permit for victims of human trafficking cannot access those essential housing supports.

In addition, an increased focus on a criminal justice response coupled with sensationalist one-dimensional awareness campaigns continue to cause harm to intentionally marginalized and stigmatized populations, including migrant workers, sex and migrant sex workers, racialized youth, LGBTQ+ and Indigenous women and girls.

I. Precarious immigration status

Human trafficking is a violent experience along a spectrum of exploitation, compounded by intersecting individual circumstances and systemic oppressions. Within this spectrum, people can experience a range of violations and crimes against them, including labour law violations, human rights violations, criminal code violations, and human trafficking.²

Restrictive and racist immigration policies and lack of access to permanent residency often lead to the violent experiences of exploitation of migrants. Through our direct and collaborative work with diverse

¹ Except refugee claimants and Convention refugees

² <https://ccrweb.ca/sites/ccrweb.ca/files/human-trafficking-law-guide-web.pdf>

and exploited migrant populations, we have observed reoccurring patterns of vulnerabilities created by precarious immigration status and without genuine legal remedies available to redress the harm.

- *Closed work permits*

Migrant workers coming through the low-wage stream of the Temporary Foreign Workers Program are subjected to closed work permits, tying them to one employer. Research and studies, including one done by the House of Commons Standing Committee on Citizenship and Immigration in 2009³ and another by the House of Commons Standing Committee on Human Resources, Skill and Social Development and the Status of Persons with Disabilities (HUMA) in 2016⁴ clearly identified widespread exploitive working conditions and sexualized violence without an immediate option to leave, as the primary factor contributing to the exploitation of workers in Canada. Leaving the situation can lead them to lose their status, potentially leading to further victimization and exploitation.

- *Temporary Resident Permits (TRP)*

The TRP is the only remedy in the IRPA available to migrants subjected to human trafficking. It is issued to people without status or those considered “inadmissible to Canada.” These are most often individuals who have lost status due to the exploitation and abuse they have experienced. While academic research on the TRP’s utility is scarce, our experience demonstrates that this tool is limited in scope and has an uncertain outcome due to the discretionary process. Outdated criteria and understanding of exploitation by IRCC officers reduce migrant experiences to individual culpability often blaming them for their own demise. When a TRP is issued, it is of limited duration with inconsistent application of services. The pathway to permanent residency this tool offers is rather complex, expensive and unattainable.

Recommendation:

1. Grant access to permanent legal status to all temporary foreign workers admitted into Canada upon arrival and regularization programs for those currently without status.
2. As an interim measure to recommendation #1, eliminate, without delay, the employer-specific work permit and adopt a work authorization regime that permits temporary foreign workers to freely change employers while in the country, regardless of their occupation or national origin.

II. Criminalization

While human trafficking is mainly addressed through the criminal justice and carceral lens, sex workers are experiencing harmful consequences, with migrant sex workers subjected to additional structural violence. Restrictive immigration policies preventing them from legally engaging in sex and related industries increases the instances of violence by clients, detention and deportation.⁵

Law enforcement operations used as primary means to address sex trafficking have unclear outcomes about the number of victims or perpetrators identified. However, the harm, including traumatization of those operations on sex workers, especially on those who are racialized, have precarious or no status, and/or belong to the LGBTQ+ communities, are well documented. Alternative massage and spa establishments and workplaces of predominantly Asian and other racialized migrant women are

³ <https://www.ourcommons.ca/Content/Committee/402/CIMM/Reports/RP3866154/cimmrp07/cimmrp07-e.pdf>

⁴ <https://www.ourcommons.ca/Content/Committee/421/HUMA/Reports/RP8374415/humarp04/humarp04-e.pdf>

⁵ <https://www.ourcommons.ca/Content/Committee/421/JUST/Brief/BR10006331/br-external/ImmigrationLegalCommittee-e.pdf>

disproportionately targeted by police, by-law officers and other law enforcement. As a result, many women suffer trauma, financial losses and arrest.

Migrant sex workers arrested during anti-trafficking police raids are transferred to the custody of the Canadian Border Service Agency (CBSA) where they may be detained and subsequently deported.

Recommendations

1. Police and other law enforcement agencies should prioritize working in collaboration with sex work organizations and advocates to develop effective solutions and not impose strategies.
2. Police agencies should immediately cease the practice of contacting CBSA when coming into contact with undocumented or other precarious migrants, including migrant sex workers.
3. Federal government should repeal sections 185(1)(1.b) and 200(3)(g.1) of the Immigration and Refugee Protection Regulations and related laws and policies that prohibit migrant people from doing sex work-related employment.

III. Access to support services

Access to non-conditional services for people experiencing any form of violence is paramount for addressing some of the consequences of those injustices. Failure to provide adequate support, including health and mental health services to help people cope, will further prolong their process of healing.

Currently, access to most available services is conditioned to immigration status, form of violence experienced or other restrictive criteria. For example, trafficked persons with TRP are excluded from provincial monetary supports such as OW and ODSP, social housing or rent supplement supports. While they have access to health and mental health services, there is no clarity on how those services can be accessed or any coordination to ensure culturally appropriate and effective services are offered.

Migrant workers with precarious immigration status in different industries continue to have limited, if any, access to services, including settlement services.

Recommendations

1. Expanded non-conditional and adequate access to support services for everyone experiencing exploitation or another form of violence.

Conclusion

Focusing on the type of trafficking, specifically sex trafficking, instead of the intersectional experiences of exploitation regardless of the industry, continues to harm intentionally marginalized communities. It minimizes and dismisses the experiences of people working and experiencing exploitation and trauma in other industries. As such, care workers, agriculture, hospitality, construction, and workers in other sectors are excluded from any meaningful access to services and protection.

The intentional conflation of human trafficking with sex work and related industries continues to dominate the policy and the resulting community responses addressing it. We need to prioritize consultations with populations mentioned in this submission experiencing negative consequences in order to understand how to address the harms and better offer the supports. Any discussion and response to human trafficking should be centered within the social and labour protections framework with access to permanent residency.

Legal Assistance of Windsor is an interdisciplinary community legal clinic working with vulnerable and marginalized individuals and communities in Windsor/Essex, Ontario. Legal Assistance of Windsor has been the lead organization for the Windsor Essex Counter Exploitation Network dedicated to providing services to individuals experiencing exploitation for over 20 years.

Ministry for Social Justice, Peace, and Creation Care is part of the Congregation of the Sisters of St. Joseph of Toronto. The Ministry administers the Collaborative Network to End Exploitation (CNEE), a collaboration of faith-based organizations and community groups. The CNEE is committed to modeling better practices of anti-human trafficking work. With the help of our partners, we root our work in the voices and experiences of people with lived experiences. We strive to ensure that our actions do not negatively impact those who have been harmed or create further pain for other targeted groups.