



Brief to the Standing Committee on the Status of Women
Re: Study on Human Trafficking of Women, Girls, and Gender Diverse People
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SWAN Vancouver Society (SWAN) promotes the rights, health, and safety of newcomer migrant and immigrant (hereinafter im/migrant) women engaged in sex work through front-line services and systemic advocacy. Since 2002, SWAN has provided non-judgmental support and services to women working in massage businesses, private residences, and other indoor sites where im/migrant sex workers operate. As such, we are uniquely positioned to provide support to both im/migrant sex workers and victims of human trafficking - in fact, we are one of only two organizations in Canada who do this work.

SWAN is a member of the Global Alliance Against Traffic in Women (GAATW), an alliance of more than 80 non-governmental organizations from Africa, Asia, Europe, Latin America and the Caribbean, and North America. In alignment with GAATW, SWAN supports an evidence-based, human rights approach to anti-trafficking.

This brief is informed by 20 years of front-line experience working directly with im/migrant sex workers, as well as years of research, advocacy, and policy work on both sex work and anti-trafficking.¹ SWAN asserts that Canada's current anti-trafficking efforts and related laws are severely misguided. They do not adequately meet the needs of im/migrant sex workers who are trafficked and, in fact, cause great harm to im/migrant sex workers who are not trafficked.

The primary issues with current anti-trafficking efforts are: 1) repressive and misguided anti-trafficking initiatives, and 2) laws and policies aimed at fighting human trafficking which are not fit for purpose, resulting instead in increased vulnerability and lack of access to justice for women in the sex industry.

¹For example, Ham, J. (2017). *Sex Work, Immigration and Social Difference*. New York, NY: Routledge; K, N. & Feresteh. (2010). *Understanding Needs, Recognizing Rights: The Stories, Perspectives and Priorities of Immigrant Iranian Women in Vancouver, BC*. Available online at http://www.gaatw.org/FPAR_Series/FPAR_GAATWIS.2010.pdf; Mackenzie, K. & Clancey, A. (2015). *Im/migrant Sex Workers, Myths & Misconceptions: Realities of the Anti-Trafficked*. Available online at <https://swanvancouver.ca/resource/im-migrant-sex-workers-myths-misconceptions-realities-of-the-anti-trafficked/>; Clancey, A., Khushrushahi, N. & Ham, J. (2014) 'Do Evidence-Based Approaches Alienate Canadian Anti-Trafficking Funders?' *Anti-Trafficking Review*, (3)87-108. Available online at <https://antitraffickingreview.org/index.php/atrjournal/article/view/66/85>; Mackenzie, K. (2017). *Barriers to Justice for Migrant and Immigrant Sex Workers: A Community-Led Research Project*. Available online at <https://swanvancouver.ca/resource/barriers-to-justice-for-migrant-and-immigrant-sex-workers/>

Current Context of Anti-Trafficking Initiatives

SWAN has engaged deeply with human trafficking-related issues since 2006, when law enforcement across the Lower Mainland of BC carried out punitive [anti-trafficking raids](#) on 18 Asian massage businesses, with the aim of rescuing victims of trafficking. Of the 78 women arrested and interrogated in these raids, none were found to be trafficked.

Im/migrant sex workers consistently tell us that when they are interrogated by law enforcement in anti-trafficking ‘rescue’ operations, they have only two options: either denounce their work and identify themselves as victims of exploitation and/or trafficking, or admit that they are autonomously making decisions and working to provide for themselves, in which case they are fined, arrested, detained, and/or deported. We know of many instances in which im/migrant sex workers did not self-identify as trafficked, and Canada Border Services Agency (CBSA) were called in to detain and deport them, or municipal bylaws inspectors were called in to issue fines for business license violations.

Unfortunately, 17 years later, misguided anti-trafficking initiatives continue to rely heavily on law enforcement, including the surveillance and policing of massage businesses, which puts im/migrant sex workers in precarious situations. SWAN’s anti-trafficking work has mainly involved identifying the harms and human rights violations caused by repressive or misguided anti-trafficking measures that focus more on eradicating the sex industry than protecting exploited or trafficked people.

For many years, SWAN has also been a vocal opponent of human trafficking awareness trainings which have been increasing among police, CBSA, healthcare providers, hotel staff, taxi drivers, hairdressers, tattoo artists, airline staff, and others. These trainings typically include vague, overbroad, and often racist ‘red flags’ that can apply to many people in society. Examples include: limited English, working long hours, fear of authorities, no access to medical care, sending money back home to their families, and fear of revealing immigration status. According to these ‘red flags’, all of the women that SWAN supports could be identified as trafficking victims, though we actually come across fewer than one case per year, on average.

SWAN urges the Government of Canada to adopt evidence-based, critical anti-trafficking approaches and to cease relying on misinformation and [debunked statistics](#) to justify their harmful initiatives.

Fear of law enforcement and lack of access to justice

Although SWAN works with women who are often perceived to be trafficked (i.e. Asian women in sex work), we very rarely come across any cases with the hallmarks of trafficking, such as coerced work. Instead, we find that the women we support face a spectrum of exploitation²

² See Collaborative Network to End Exploitation, “Exploitation: it’s a spectrum”. Available at <https://www.cnee.ca/exploitation/>

and/or violence in their work, most often directly as a result of the stigma and criminalization they face.³ In particular, migrant sex workers are often targeted by perpetrators who capitalize on their lack of access to recourse or justice.

Im/migrant sex workers in Canada currently experience multi-layered criminalization through the Protection of Exploited Persons and Communities Act (PCEPA), the Immigration and Refugee Protection Regulations (IRPR), anti-trafficking legislation and enforcement, and municipal bylaws. Despite PCEPA's intentions to protect people, criminalizing consensual sex work to fight trafficking is not only ineffective, it creates situations where violence, exploitation, and trafficking can thrive.⁴ Combined with the IRPR prohibition on sex work, the result is that the most marginalized women in the sex industry are not protected, but put at greater risk of harm.

In efforts to avoid the enforcement of these laws, the women we support often work in hidden and isolated spaces, which increases their vulnerabilities to predators. When these women have chosen to report violence or crime, they have often been arrested, detained, and deported. In this context, we have found that the women who access our services avoid law enforcement at all costs - including when they experience violence, exploitation, and trafficking.

Conclusion

Current anti-trafficking and anti-sex work policies and initiatives in Canada are counterproductive and have resulted in significant harm to im/migrant sex workers. We urge the Government of Canada to re-evaluate their approach to anti-trafficking, and to consider how anti-trafficking policies, initiatives, and enforcement can actually put systemically vulnerable people at *greater* risk of exploitation and trafficking.

Furthermore, if the Committee is truly concerned with preventing exploitation and trafficking in the sex industry, it is essential to fully decriminalize sex work. For the women we support at SWAN, this means not only the repeal of our federal sex work laws (PCEPA), but also the IRPR regulations which prohibit migrants from engaging in sex work.

The Standing Committee on Justice and Human Rights that reviewed PCEPA in 2022 recently made the recommendation to the Government of Canada to repeal the IRPR prohibition on sex work.⁵ We urge the Government of Canada to follow through on repealing these regulations which put migrant women engaged in sex work in precarious and exploitative situations.

³ It is important to be clear that sex work is not inherently dangerous; the violence and exploitation that sex workers experience is due to the vulnerabilities caused by the current laws and systems in Canada.

⁴ See SWAN's [brief](#) to the Standing Committee on Justice and Human Rights for the review of PCEPA.

⁵ See the [report](#) of the Standing Committee on Justice and Human Rights.

Recommendations

In 2018, SWAN submitted a brief to the Standing Committee on Justice and Human Rights for their study on human trafficking.⁶ Unfortunately, in the past 5 years there has been little improvement in this area; as such, SWAN's recommendations remain the same:

- **Re-examine how anti-trafficking police resources are allocated:** In a legal framework where police are mandated to enforce PCEPA, police can and never will be able to assume the role of community anti-trafficking outreach. Instead, police resources must be spent developing relationships with those at risk of trafficking via sex work support organizations that are always carrying out preventative trafficking measures and responding to trafficking when calling police is not an option.
- **Overhaul human trafficking awareness training, particularly training for police and CBSA:** Human trafficking awareness training that does not include experiential input on the distinction between sex work and human trafficking is causing great harm and impeding efforts to address human trafficking in the sex industry.
- **Acknowledge the unintended consequences of current anti-trafficking strategies that result in increased fear and distrust of law enforcement:** Raids on massage businesses in the attempt to rescue trafficking victims have proven ineffective, and have resulted in the arrest, detention, and deportation of systematically marginalized women. The Government must meaningfully consult with sex work communities as to what non-harmful anti-trafficking strategies could look like.
- **Dedicate resources to community-based, sex work organizations:** Sex work organizations are best positioned to provide comprehensive, non-judgmental, and tailored services to their constituencies, yet they are chronically under-resourced to prevent and respond to human trafficking. Acknowledge the critical role that sex workers can play in identifying predators and traffickers, and shift away from funding initiatives based on human trafficking frameworks that exclude sex work organizations.
- **Examine how the Government of Canada has structured immigration systems, work visas, and sex work legislation:** Currently, these systems leave im/migrant sex workers vulnerable to employment abuses, unable to articulate and defend their human rights, and unable to effectively organize to protect themselves from human trafficking. Concentrating efforts solely on traffickers who capitalize on these state-created vulnerabilities absolves the government of addressing systemic causes of human trafficking among im/migrant sex workers.
- **Repeal PCEPA:** Decriminalize sex work to ensure sex workers have access to their basic human rights including health and social services, and legal and labour protections.
- **Repeal the IRPR ss. 183(1)(b.1), 196.1(a), 200(3)(g.1), and 203(2)(a):** Remove laws that explicitly prohibit the participation of migrants in the sex industry, as these render them vulnerable to exploitation. Acknowledge that the threat of deportation under IRPR is a significant contributing factor to the underreporting of violence, exploitation and trafficking.

⁶ See SWAN's [brief](#) to the Standing Committee on Justice and Human Rights Human Trafficking study