

**Brief to the Justice and Human Rights Committee on PCEPA:
Protection of Communities and Exploited Persons Act**

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by Showing Up For Racial Justice, Toronto.

Authored by Chanelle Gallant

Dear Chair, Vice Chair, and Committee members of Justice and Human Rights Committee,

My name is Chanelle Gallant, I have worked on the issues of criminalization, racial justice, gender-based violence, sex work and human trafficking policy for over 20 years nationally and internationally. I am a co-founder of Showing Up for Racial Justice– Toronto (SURJ) and on the board of SURJ-International, an international organization committed to undermining white support for racist systems and institutions. We work to support and collaborate with local and national racial justice and decolonization organizing efforts led by Black, Indigenous, and People of Colour (BIPOC) organizers.

I am also formerly a staff member with the Aboriginal Sex Workers Education and Outreach Project (ASWEOP), at Maggie's: Toronto Sex Workers Action Project, Canada's first social service project to be led by Indigenous people in the sex trade. I have worked with over 5000 people in the sex industry in Canada, the U.S., Australia and Thailand.

This submission is written on behalf of SURJ Toronto, as we are deeply opposed to PCEPA because of its distinctly harmful impact on Black, Indigenous, racialized and migrant people in the sex industry. We join the call coming from sex work, racial justice, and human rights organizations to repeal PCEPA and fully decriminalize sex work.

The prohibition of sex work, via PCEPA, was characterized as a way of ending exploitation and violence in the sex industry. At the time of its implementation, organizations led by directly impacted sex workers vehemently opposed PCEPA, pointing to evidence that such laws would cause harm. Seven years later, many of these same organizations have provided evidence to these hearings that PCEPA has failed to deliver on its stated objectives. Not only this, but PCEPA has increased sex workers' vulnerability to targeted violence and exploitation.

Increasing Police Powers Over BIPOC Sex Workers

We want to address specifically the ways that PCEPA has increased police powers over sex workers, leading to enhanced surveillance and criminalization of Black, Indigenous, and racialized communities, including racialized migrant sex workers who already experience disproportionate targeting and harassment from law enforcement.

In their submission to the National Inquiry into Murdered and Missing Indigenous Women and Girls, the Vancouver Sex Workers Rights Collective writes¹ “The criminalization and stigma surrounding sex work means that Indigenous individuals who provide sexual services are likely to be mistreated by police. Violent predatory individuals exploit this reality to engage in violence with impunity, as the police, crown prosecutors, and judges often do not believe individuals who participate in sex work. Stigma and criminalization of sex work silences truths and hides perpetrator violence. “ In the same submission, the Collective goes on to state that “The use of the criminal law as a tool has consequences that have led to vulnerability and harm experienced by indigenous people who participate in sex work.”

In 2019, the Canadian HIV/AIDS Legal Network undertook research on the effects of PCEPA and found that it led to an increase in racial profiling, scrutiny, over-policing and under-protection of sex workers of colour. For example, Monica Forrester was quoted in

¹ VANCOUVER SEX WORKERS RIGHTS COLLECTIVE WRITTEN SUBMISSIONS, National Inquiry into the Murdered and Missing Indigenous Women and Girls. December 14, 2018

the report saying “Indigenous sex workers, or Black African-Caribbean sex workers are most targeted within the work they do; they’re most visible, even when sex workers are not working, they’re still being confronted by police.”²

In their report on how anti-sex work and anti-trafficking laws and policies affect migrant sex workers, Butterfly: Asian and Migrant Sex Workers Support Network write that “Migrant sex workers in particular are impacted by the intersection of laws that discriminate against them, which lead to being over-policed, arrested, criminally charged and fined, and loss of immigration status and deportation. These laws include immigration regulations, criminal offences, and municipal regulations that directly target migrants, sex workers and sex work...Instead of protecting migrant women, PCEPA, IRPA and municipal bylaws are a punitive law enforcement measure used to prosecute (migrant sex workers).”³

In 2021, the Black Legal Action Clinic released a statement, quoting from the academic Robyn Maynard that “Ultimately, our position is, “regardless of intent, increasing the policing and criminalization of sex workers renders Black and other racialized women more, not less, vulnerable to state violence.”⁴

Disproportionate Barriers to Services, Safe Workplaces and Economic Stability

The direct involvement of the police in the lives of BIPOC sex workers creates and contributes to poor working conditions, creates barriers to services, increases economic precarity and directly contradict the government's stated interest in combatting exploitation.

The extra scrutiny faced by BIPOC sex workers as a result of PCEPA results in an increase in underground work. Workers who are hyper-visible to the police, must hide.

² The Perils of “Protection”: Sex Workers Experiences of Law Enforcement in Ontario, HIV/AIDS Legal Network, 2018

³ “Behind The Rescue: How Anti-Trafficking Investigations and Policies Harm Migrant Sex Workers”, Butterfly: Asian and Migrant Support Network, 2018

⁴ Submission to the Standing Committee on Justice Policy Re: Bill 251: An Act to enact, amend and repeal various Acts in respect of human trafficking matters Submission By: THE BLACK LEGAL ACTION CENTRE (BLAC) May 13, 2021

This means that they must also hide from the public, from their own communities and from social services. They are less likely to be reached by community supports and less able to negotiate for better working conditions. All of this increases BIPOC sex workers' isolation and exposure to more exploitative working conditions.

There is significant evidence that PCEPA exacerbates poverty and economic precarity among BIPOC sex workers as well. As a result of police interactions, BIPOC sex workers are more likely to end up with convictions for non-sex work offenses. These convictions can curtail their ability to find other or complementary work, they can interfere with accessing public or supportive housing and they can contribute to evictions. The risk to safety for already vulnerable communities has created enormous ripple effects and additional barriers to essential health and social supports.

As with most industries, exploitation is often the result of discrimination, poverty, and other precarious circumstances. PCEPA does not address any of these issues, it only exacerbates them. When people's choices are limited due to poverty and racial inequality it is harmful to reduce their choices even further. Punitive regulations such as PCEPA further reduce BIPOC sex workers' ability to earn a living and stay housed, and thereby contribute to disproportionate rates of poverty for workers already marginalized by injustice and inequity.

Undermining Racial Justice in Canada

Canadian police use PCEPA to justify racial profiling, harassment, workplace raids, abuse, detention and deportations of people of colour. PCEPA has been shaped by racist and anti-sex work stereotypes that conflate human trafficking with sex work. There is a long history of "protective" rhetoric being used to cover over moralistic agendas and fuel the expansion of policing, border control, and by-law enforcement under the guise of a violence against women and children mandate.

Systemic racism is produced when racialized communities are disproportionately impacted by decisions – policy or otherwise. PCEPA purports to be a race-neutral law,

but its effects are anything but neutral. PCEPA undermines the achievement of racial justice in Canada. It disregards the growing calls for divestment from policing, and instead it expands police powers and utilizes federal resources to surveil, interrogate, and harass Asian, Black, Indigenous, and migrant communities.

Invest in Anti-Racist Solutions To Exploitation and Violence

Ending exploitation and violence in the sex industry involves addressing systemic issues such as the criminalization of sex work, state-sanctioned violence and harassment by police, increasing safe working conditions, and instilling human, migrant and labour protections. The consultation process to review PCEPA must be based on a framework that protects and respects the rights, health and safety of workers; supports the right to earn a living; treats sex work businesses with fairness; and prioritizes accountability measures that monitor and minimize interactions with police officers and prevents abusive behaviour and rights violations during interactions.

We urge this body to listen to community leaders and legal experts on the ground whose message is clear and consistent: PCEPA does not protect those who are experiencing marginalization and exploitation but results in greater harm, especially toward BIPOC sex workers. We urge you to develop policy in a fair and unbiased manner that promotes racial justice and the dignity, and well-being of all sex workers.

Toward that end, SURJ joins sex work, human rights and racial justice organizations that have spoken out in the past in support of the full decriminalization of sex work.

Sincerely,

Chanelle Gallant

Showing Up for Racial Justice