

Minister of Justice
and Attorney General of Canada



Ministre de la Justice
et procureur général du Canada

The Honourable / L'honorable David Lametti, P.C., K.C., M.P. / c.p., c.r., député
Ottawa, Canada K1A 0H8

October 20, 2022

Mr. Randeep Sarai
Chair
Standing Committee on Justice and Human Rights
House of Commons
Ottawa ON K1A 0A6

Dear Mr. Sarai:

On June 22, 2022, the Standing Committee on Justice and Human Rights presented its report entitled, *Preventing Harm in the Canadian Sex Industry: A Review of the Protection of Communities and Exploited Persons Act*, and requested that the Government table a response to the report's recommendations, which are aimed at increasing protection for individuals engaged in the sex trade and preventing exploitation and violence.

On behalf of the Government of Canada, and pursuant to Standing Order 109 of the House of Commons, I am pleased to respond to the Committee's report. I would like to thank the Committee for its comprehensive study of the sex trade in Canada. Selling sexual services is not an offence in Canada and sex workers are protected from prosecution for engaging in sex work. The Government of Canada acknowledges that individuals may become involved and remain in the sex trade under very different circumstances, including by choice and through exploitation of their vulnerabilities, and that more must be done to address the risks and harms faced by all those engaged in the sex trade.

The Government also recognizes that the issue of which legislative framework ought to apply to the sex trade is divisive and engenders strongly held views. Moreover, the constitutionality of the relevant *Criminal Code* provisions restricting aspects of the sex trade is currently before the courts. The Government commits to continuing to study the complex issues raised by the Committee's Report, which includes continuing to assess the impact of the existing legislative framework, continuing to examine ways to strengthen the criminal law's response to violence and exploitation, and continuing to support sexual service providers, including through services that are appropriate to their diverse needs and through efforts to prevent exploitation and violence, as described below.

Assessing the impact of the existing legislative framework

Enacted in 2014 in response to the Supreme Court of Canada’s 2013 *Bedford* decision which struck down three “prostitution” offences, the *Protection of Communities and Exploited Persons Act* (PCEPA) created new *Criminal Code* offences that criminalize purchasing sexual services, receiving a material benefit from others’ sexual services, procuring others to provide sexual services and advertising others’ sexual services, while ensuring that sexual service providers are not held criminally liable for the role they play in any of these offences with respect to the sale of their own sexual services. These provisions reflect a Nordic Model approach to the sex trade, which was first implemented in Sweden in 1999 and subsequently in a number of other countries. The PCEPA also enacted a new *Criminal Code* offence that criminalizes communicating in public places that are or are next to school grounds, playgrounds or daycare centres for the purposes of selling sexual services.

Justice Canada continues to monitor the impacts of the PCEPA, including through relevant case law and research, as well as international developments, including research concerning the impact of different legislative regimes governing the sex trade in other countries. Justice Canada also continues to monitor jurisprudence and research related to the *Criminal Code* human trafficking offences. Furthermore, in partnership with Statistics Canada, Justice Canada funded a June 2021 Juristat entitled, *Crime related to the sex trade: Before and after legislative changes in Canada*, which examined trends in crimes related to the sex trade, comparing data from up to five years before and after the enactment of PCEPA. Justice Canada will also partner with Statistics Canada to develop another sex trade-related Juristat that will build on the June 2021 Juristat. Additionally, Public Safety Canada, in partnership with Statistics Canada, funds the *Trafficking in persons in Canada* Juristats, which have been published annually since 2018.

Justice Canada also produced a report in July 2022 entitled, *A Review of the Measure to Address Prostitution Initiative*, which examined the socio-demographic characteristics and experiences of sexual service providers who received services from organizations that were funded through the \$20 million over 5 years that was attached to the PCEPA when it was enacted in 2014 (\$10 million for Justice Canada and \$10 million for Public Safety Canada). Justice Canada has also contracted with Voice Found, a Canadian non-governmental organization, to undertake qualitative research with a number of former and current sexual service providers to develop a better understanding of their lived experiences.

Immigration, Refugees and Citizenship Canada is assessing existing immigration mechanisms that are available to support at-risk foreign nationals, for example the temporary resident permit for human trafficking victims and the open work permit for vulnerable workers, and will also explore, in partnership with Employment and Social Development Canada (ESDC) and the Canada Border Services Agency (CBSA), possible policy options to address the concerns raised by the Committee, including

repealing the *Immigration and Refugee Protection Regulations* that place foreign national sexual service providers at risk of deportation (i.e., sections 183(1)(b.1) and 196.1(a)).

Strengthening the criminal law’s response to violence and exploitation

The Government is committed to ensuring a robust criminal law response to human trafficking, a crime that necessarily involves the use of coercive practices to obtain labour or services from victims, whether in the sex trade or elsewhere. For that reason, in 2019, it brought into force reforms originally proposed by former Private Member’s Bill C-452, *An Act to amend the Criminal Code (exploitation and trafficking in persons)*. These reforms include an evidentiary presumption to facilitate proving human trafficking offences by allowing prosecutors to adduce evidence that the accused lived with or was habitually in the presence of an exploited person as proof of one of the elements of the trafficking offence, and imposing a reverse onus for forfeiture of proceeds of crime on those convicted of human trafficking offences. The Government is also following Parliament’s study of Bill S-224, *An Act to amend the Criminal Code (trafficking in persons)*, which proposes to redefine “exploitation” for the purposes of the *Criminal Code*’s human trafficking offences.

The Government is also following Parliament’s study of Bill C-202, *An Act to amend the Criminal Code (controlling or coercive conduct)*, and monitoring the experiences of other jurisdictions that have criminalized coercive control (i.e., United Kingdom (2015), Scotland (2018) and Ireland (2019)). As I noted in my response to the Committee’s April 2021 report entitled, *The Shadow Pandemic: Stopping Coercive and Controlling Behaviour in Intimate Relationships*, the Deputy Minister of Justice raised possible coercive control legislative reform at the June 2022 meeting of Federal-Provincial-Territorial (FPT) Deputy Ministers Responsible for Justice and Public Safety, and I will do so at the next meeting of FPT Ministers Responsible for Justice and Public Safety, expected to take place in October of 2022. Justice Canada officials will also raise the Committee’s coercive control and sex trade recommendations with their PT colleagues through the Coordinating Committee of Senior Officials – Criminal Justice.

Supporting sexual service providers

The Government is committed to continuing to provide support to sexual service providers, including at-risk foreign nationals, and will raise the Committee’s Report with PT colleagues, who play an important role in supporting victims of crime. In particular, the Government will continue to fund initiatives aimed at supporting sexual service providers, including through services that are appropriate to their diverse needs and through efforts to prevent exploitation and violence. These initiatives include:

- Several projects, funded by Women and Gender Equality, which aim to advance equality for women through diverse approaches, such as: the development and implementation of safe, accessible and culturally appropriate supports, by the Yukon Status of Women Council, for Yukon-based women who are survivors of

trafficking and/or who are looking to leave the sex trade; the identification, development and implementation of trauma-informed best practice guidelines and related training materials, by the Surrey Women's Society, for local police working with street-based sexual service providers; and, the engagement of Indigenous women who provide sexual services in Vancouver, British Columbia in a series of Talking Circles, by the Downtown Eastside Sex Workers United Against Violence Society, to discuss and explore their individual stories.

- Public Safety Canada's five-year human trafficking awareness campaign, launched in February 2021, which aims to increase awareness of human trafficking, address public misconceptions of the crime, and create awareness of the warning signs and ways to report suspected incidents, and Public Safety's National Human Trafficking Awareness Campaign, which travelled across the country in the summer of 2022 to raise awareness about common misperception around human trafficking, the potential warning signs and how to help those who are at risk.
- The Canadian Human Trafficking Hotline, supported by Public Safety Canada and operated by the Canadian Centre to End Human Trafficking, which includes the production and implementation of national and targeted awareness campaigns to promote the hotline number and services.
- Voice Found's community-based project, "Hope Found", funded by Public Safety Canada, which provides support to those wishing to exit the sex trade to do so safely. Services include immediate supports, including food, shelter, clothing, and psychological and emotional support, and training to help prepare them for education and employment opportunities.
- The YWCA Moncton's project, Brave YW, funded by Public Safety Canada, which provides supports and services for young women and non-binary youth, including Indigenous youth with heightened vulnerability for exploitation, and aims to enhance protection and prevention for youth at a heightened risk of becoming exploited, such as through the development of personal safety plans, the identification of healthy relationship traits, and increasing awareness of grooming and luring techniques.
- The Alluriarniq: Stepping Forward project, led by the Tungasuvvingat Inuit organization located in Ontario and supported by Public Safety Canada, which aims to assist Inuit adults and youth who are involved in the sex trade or who are victims of sexual exploitation to safely exit the sex trade and reduce associated harms.
- The First Light St John's Friendship Centre's project "Finding Strength in Culture", funded by Public Safety Canada, which aims to support Indigenous individuals involved in and looking to leave the sex trade by providing individual or group cultural support through a trauma-informed approach, connection with a counsellor and/or Elders and allows Indigenous individuals to identify and guide their own transition and healing process.

- The First Nations Child and Family Services program and the implementation of the *Act respecting First Nations, Inuit and Metis child, youth and families*, which is managed by Indigenous Services Canada and focuses on preventing children from coming into contact with the child protection system. This program addresses some of the root causes for entering the sex trade and provides support to vulnerable youth.
- Post-majority services, funded through the First Nations Child and Family Services Program, which aim to support the safety and well-being of First Nations youth and young adults during their transition post-care into adulthood. This funding assists in addressing some of the root causes of young people entering the sex trade. Services include: housing assistance, health and wellness activities and supports, life skills development, education activities or assistance, community and cultural (re)connection and assistance to establish family and social relationships and self-care supports.
- Training for law enforcement on human trafficking and sex trade offences, provided by Justice Canada officials on an ongoing basis through the Canadian Police College's Human Trafficking Investigators' Course, which includes a component on the importance of fostering relationships of trust between law enforcement and sexual service providers, and bilingual online human trafficking training for criminal justice professionals and victim service workers, which is being developed by Justice Canada and is expected to be publicly available in 2023.
- Justice Canada's Victims Fund, which includes an allocation of \$1 million annually to support victim-serving organizations that provide services to meet the unique needs of victims and survivors of human trafficking.
- The Government's National Strategy to Combat Human Trafficking, led by Public Safety and supported by an investment of \$57.22 million over five years starting in 2019-20, with \$10.28 million annually thereafter, puts in place a coordinated framework to guide the Government's anti-human trafficking efforts with a view to: empowering victims and survivors; preventing these crimes from taking place; better protecting those who are most vulnerable to trafficking; prosecuting human traffickers; and embracing partnerships with PTs and other organizations.
- The Open Work Permit for Vulnerable Workers, implemented by Immigration, Refugees and Citizenship Canada, which allows workers on employer-specific work permits who are experiencing abuse or at risk of abuse in their job to apply for an open work permit.
- Temporary resident permits that are issued to out-of-status foreign national victims of human trafficking in Canada, which provide protection by regularizing their temporary status in Canada and by allowing victims of human trafficking to escape the influence of their traffickers and to access medical treatment and counselling services through the Interim Federal Health Program.

- The Migrant Worker Network Support pilot, implemented by ESDC, which supported over 39,000 newly-arrived temporary foreign workers (TFWs) to receive orientation services at the Vancouver, Calgary, Toronto, and Montreal international airports, as well as over 60 community organizations to provide accessible information and case management supports directly to TFWs in Canada. An online migrant worker hub has also been developed to facilitate access to consistent and accurate resources for TFWs, the organizations that assist them, and their employers.
- A new Migrant Worker Support Program, to be implemented by ESDC, which will support community organizations across Canada to continue delivering programs and services that increase migrant workers' knowledge of their rights as well as providing supports to exercise their rights, on-arrival orientation services at certain airports and assistance in emergency and at-risk situations.
- A review of the immigration enforcement and inadmissibility frameworks within the *Immigration and Refugee Protection Act* and the *Immigration and Refugee Protection Regulations*, which is currently being undertaken by the CBSA, to ensure that sufficient protections are in place for victims and survivors of gender-based violence.

Our Government agrees that individuals involved in the sex trade are entitled to respect and the protection of the law, regardless of the circumstances in which they enter or remain in that trade. The safety of all is of paramount importance. For that reason, the Government is committed to continuing its study of the applicable legal framework and its impact, and continuing to work together with partners to make services available that address the needs of all those engaged in the sex trade.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Lametti', with a long horizontal flourish extending to the right.

The Honourable David Lametti, P.C., K.C., M.P.
(he/him)
Minister of Justice and Attorney General of Canada