How Laws Regulate Migrant Sex Workers in Canada: To Protect or to Harm?

Elene Lam
PhD candidate, School of Social Work, McMaster University

Author Note

Elene Lam https://orcid.org/0000–0003–0832–1119

This paper draws on research supported by the Social Sciences and Humanities Research Council and Butterfly (Asian and Migrant Sex Workers Support Network).

Correspondence concerning this article should be addressed Elene Lam, 1280 Main Street West, Hamilton, ON L8S 4L8. Email: lamy4@mcmaster.ca

Abstract

Migrant sex workers in Canada are regulated and affected by a web of laws and policies at the federal, provincial, and municipal levels. This article lays out how these laws and policies, which claim to protect migrant workers, govern and harm their lives. Focusing on the experiences of migrants of Asian descent, this article explores how ill-conceived anti-trafficking laws and enforcement, including sex work-related criminal law, immigration laws that target and prohibit sex work, provincial human trafficking laws, and municipal laws regulating body rub services, conflate sex work with trafficking and further endanger migrant sex workers.

Keywords: migrant, immigration, race, racism, sex workers, trafficking, law, legal

Résumé

Les travailleurs migrants de l'industrie du sexe au Canada sont réglementés et touchés par un agencement de lois et de politiques aux niveaux fédéral, provincial et municipal. Cet article explique comment ces lois et politiques, qui prétendent protéger les travailleurs migrants, régissent et nuisent à leur vie. En se concentrant sur les expériences des migrants d'origine asiatique, cet article explore comment les lois contre la traite des personnes et leur application mal conçues, confondent le travail du sexe avec la traite des personnes et mettent davantage en danger les travailleurs du sexe migrants. En se penchant sur le droit pénal lié au travail du sexe, les lois sur l'immigration qui ciblent et interdisent le travail du sexe, les lois provinciales sur la traite des personnes et les lois municipales réglementant les services de massage corporel.

Mots-clés : migrant, immigration, ethnie, racisme, travailleur de l'industrie du sexe, traite, droit, juridique

How Laws Regulate Migrant Sex Workers in Canada: To Protect or to Harm?

> The law claims to protect our safety, but this is opposite. I supported and protected the safety of other sex workers by answered the call and screen the clients. They felt safer by having someone help them communicate with the clients. If something bad happens, I would kick away the bad clients. However, I was arrested and charged. I lost everything: I lost my home, my income and even my dog. My psychological and mental health is severely affected. Why am I being charged and punished when I helped other workers?
>
> —Li, a Butterfly member, 2022

Introduction

Li's is not an isolated story. It is one of many I have heard through my work as a community organizer and activist with Butterfly, an Asian and migrant sex workers' organization. In the past five years, more than 200 Asian migrant sex workers and massage parlour workers I have worked with in Canada have shared stories with me about being harassed, abused, racially profiled, charged, arrested, detained, imprisoned, or deported. Their stories blatantly contradict the rhetoric of protection that is used to justify a host of federal, provincial, and municipal laws and policies that regulate and police the lives of migrant sex workers.

On March 30, 2021, the Canadian Alliance of Sex Work Law Reform (CASWLR), which represents 25 sex workers' rights groups across Canada, launched a constitutional challenge to the Protection of Communities and Exploited Persons Act (PCEPA). These community advocates seek to strike down sex work-related offences on the grounds that PCEPA laws "violate sex workers' constitutional rights to security, personal autonomy, life, liberty, free expression, free association, and equality" (CASWLR, 2021, para 1).

The Canadian government claims that PCEPA's end-demand model is designed to criminalize clients and third parties, protect sex workers, and prevent exploitation. Sex workers argue, however, that PCEPA criminalizes and harms them by increasing their isolation and the discrimination and stigma against them and also by preventing them from accessing health, social, and legal supports. Furthermore, it increases their vulnerability to being targeted by violence and exploitation since they are profiled and targeted by law enforcement and therefore forced to work in precarious situations (CASWLR, 2021, 2022).

In 2022, sex workers, human rights organizations, academics, and researchers attended the hearing of the House of Commons Standing Committee on Justice and Human Rights for its review of the PCEPA. They presented evidence that included lived experience testimony, community reports, and empirical research that demonstrated how the PCEPA, rather than reducing exploitation, has increased violence, discrimination, and harassment. These organizations and advocates recommend fully decriminalizing sex work through the repeal of criminal laws, like PCEPA, related to sex work. The decriminalization of sex work is recognized as an important step to ending the violence and stigma faced by sex workers so they can develop

occupational health and safety mechanisms, access labour and human rights protection, improve their safety, and by doing so, improve their lives. Arguments for decriminalization are supported by a strong body of research that points to the importance of protecting and respecting the bodily autonomy and agency of sex workers.

Currently, migrant—particularly Asian—sex workers are caught in a web of carceral laws and facing endless criminality (Fudge et al., 2021). They are targeted not only by the Criminal Code, through acts like PCEPA, but by immigration laws, anti-trafficking laws, and municipal bylaws (Butterfly, 2022a; Fudge et al., 2021; Liew, 2020, 2022). In this paper, I examine the ways federal (criminal, human trafficking, and immigration), provincial, and municipal laws, in concert with anti-trafficking policies, harm migrant sex workers in Canada. As part of this investigation, I also interrogate dominant narratives that conflate sex work with human trafficking and construct migrant (particularly Asian) sex workers as "victims" who need to be "rescued." Despite increasingly well-documented accounts of the negative impacts of the laws, policies, and policing that regulate migrant sex workers (Butterfly, 2022; Canadian HIV/AIDS Legal Network, 2019; Lam, 2018a, 2018b, 2019a, 2019b; Lam et al., 2021; Fudge et al., 2021; McBride et al., 2019, 2020; 2022; Migrant Workers Alliance for Change, 2022), there is limited scholarly work that comprehensively reviews and analyzes these laws and policies.

I begin by providing a definition of terms and situating myself as an activist scholar. I then offer a review of a selection of critical migration, critical race, and feminist theory scholarship that interrogates how the problem of human trafficking is constructed to shape laws and policies that target migrant sex workers. In addition to this theoretical scholarship, throughout this article I also foreground research by community and migrant sex worker organizations. Following this conceptual framework, I provide a brief history of the criminalization of migration as it intersects with sex work, with a focus on women migrants of Asian descent in the Canadian context. I then examine the ongoing legacies of this history which are evident in contemporary laws and policies that operate at different levels of government (federal, provincial, and municipal) and that continue to criminalize migrant sex workers in Canada. In the sections that follow, I deconstruct how these laws and policies operate in concert with one another to produce harmful effects and entrap migrant sex workers in a "carceral web" (Fudge et al., 2021; Santini & Lam, 2017). I conclude with a critique of anti-trafficking discourse and emphasize the leadership and agency of migrant sex workers themselves in their efforts to decriminalize sex work, repeal immigration prohibitions on sex work and repressive municipal bylaws, access full immigration status, and immediately cease law enforcement raids and the violent invasions of their workplaces.

Defining Terms and Situating Myself Within an Academic Context

I use the term *migrant* to reflect a range of experiences of migration and statuses. Many migrant sex workers are temporary residents, including international students, refugee claimants, people under visa sponsorship, visitors, or people who have precarious or no immigration status, though many are permanent residents or even citizens. Their immigration status is often fluid and

may change over time. Their experiences of living and working in Canada, and the rights they are afforded, are significantly affected by their immigration status. I use the terms *sex work* and *sex workers* to reflect my recognition and acknowledgement of sex work as legitimate work. These terms also encapsulate the demands for health, human, and labour rights in the sex industry. It is important to note, however, that not all people who sell or exchange sexual or erotic services identify themselves as sex workers.

Migrant sex workers face intersecting oppression such as classism, sexism, racism, xenophobia, transphobia, and whorephobia. Due to language barriers, discrimination, criminalization, and precarious immigration status, they face significant challenges in their work and lives, such as barriers to accessing social support and health services (Goldenberg et al., 2017; Malla et al., 2019). Because of social stigma, exclusion, and criminalization, migrant sex workers are being pushed into isolation and dangerous working and living conditions, forced to conceal themselves and their work, and further exposing themselves to greater risks of violence (including violence from law enforcement) (Butterfly, 2022; Fudge et al., 2021; Malla et al., 2019; McBride et al., 2022; NSWP, 2018). Despite its many challenges, migration is a deliberate decision that many sex workers make (Agustín, 2006, 2007; Vanwesenbeeck, 2019). Migrant sex workers are resilient people who strongly resist systems of oppression and chase their dreams of a better life in spite of monumental challenges (Butterfly, 2016; Malla et al., 2019).

I come to this work as a grassroots activist who has worked with migrant and sex worker communities for over two decades. This article is part of my doctoral project which seeks to explore how anti-trafficking investigations are organized to harm migrant sex workers, particularly those who are Asian. In the study, I identify how laws and policies regulate the everyday lives of migrant sex workers, and in the process, cause them harm. I also critique the carceral approach that has been adopted and promoted by many anti-sex work organizations and is often supported by social workers and other helping professionals, and by feminist, gender-based anti-violence and human rights organizations. My work illustrates how an anti-sex work ideology is embedded in the laws and policies related to sex work and asserts that a carceral approach does not protect victims or end violence but actually causes harm.

My gratitude and my accountability are to those I have learned from in the migrant and sex worker communities over the years. Their contributions are deeply interwoven into my academic work and are as integral to this research as the critical migration, race, and feminist theories in which it is also grounded.

Sex Work and Migration in Critical Migration, Critical Race, and Critical Feminist Theory

My analysis of the law and policy related to sex work and migration are strongly influenced by intersectionality (Crenshaw, 1989, 1991; Collins, 1998) and critical theories (particular critical race theory, critical feminist theory, and critical migration study) that not only examine the process of knowledge production but also uncover how power operates. There are increasing numbers of activists and scholars, particular from Black, Indigenous, migrant, and abolitionist justice movements who call for the abolition of prison, police, and borders. They

argue that the carceral approach is being used to uphold and maintain state violence, nationalism, white supremacy, colonialism, imperialism, capitalism, xenophobia, racism, sexism, and classism, as well as to control migrants and racialized peoples, including their body and labour (Cole, 2020; Davis et al., 2022; Jones, 2022; Maynard, 2017; Walia, 2013, 2021; Wong, 2022).

The intersecting identities of migrant sex workers as women (or trans), racialized, migrants, poor, and sex workers are criminalized in almost all aspects of life. As migrant scholar activist Harsha Walia said in a conference in 2022, migrant sex workers are teaching us about the "overlapping systems of criminalization, including the criminalization and regulation of sex work, the criminalization and parity of gender labour, and the criminalization and illegalization of migration" (Walia, 2022).

Critical scholars in Canada are conducting research on conceptualizations of sex work and the impact of regulation on sex work. Contemporary Canadian laws and policies related to sex work and migration have been shaped by discourses related to sex work, most notably, illegality and victim discourses. Sex work has been constructed as immoral, and as a social evil, and sex workers as public nuisances, diseased, and trafficked victims. Van der Meulen and Durisin (2018) traced the history of the development of sex work policy in Canada and found that it has been shaped by moral and social purity movements, the white slavery panic, and concerns about public health, colonialism, and nationalism.

Studies concerning migration, labour, gender, trafficking, and sex work done by critical scholars such as Agustín (2007), Doezema (2001), Kempadoo (1998, 2001, 2005, 2012), Sanghera (2012), and Shih (2021) investigate how the moral panic that manifests against migrant sex workers is related to their intersecting racial, sexual, gender, migration, and class identities. Similarly, Uy (2011) suggests that "race, class, and gender often play a large part in the construction of the "sympathetic" or "perfect" victim" (p. 204). Weitzer (2007) shows how the moral crusade is institutionalized and "incorporated in government policy, legislation, and law enforcement practice" (p. 447).

De Shalit, Roots, and van der Meulen (2021) uncover how policy is driven by the "victim discourse" and how "politicians are entangled in trafficking knowledge that has potentially harmful effects for sex workers" (p. 14). In her critique of the anti-trafficking campaign, Bernstein (2010; 2012) examines how "neoliberalism and the politics of sex and gender have intertwined" (p. 233) to produce carceral feminist advocacy movements, in particular anti-trafficking movements. Similarly, Kempadoo (1999; 2001; 2005; 2012; 2015) has been critical of the problematic discourse of human trafficking that has held sway for more than two decades, particularly as it relates to class, gender, racism, white supremacy, and colonialism (see also, Kempadoo & Shih, 2022).

In addition to interrogating conceptualizations of sex work and its criminalization, critical scholars also examine how certain migrant, racialized and sexualized "bodies" are criminalized. Millar and O'Doherty (2020) assert that anti-trafficking and anti-sex work laws "are being enforced and publicized along racialized, gendered, and sensationalistic lines in a context of

over-surveilling some populations" (p. 36). Maynard (2015, 2017) examines the history of the policing of Black people, including surveillance, criminalization, and punishment. She also looks at how the anti-trafficking crusades have targeted and failed sex workers, migrants, and Indigenous peoples. Kaye (2017) suggests that anti-trafficking discourses of protection are settler-colonial discourses that rely on the coloniality of racialized interventions and perpetuate marginalization, criminalization, and gendered colonial violence against Indigenous women and two-spirited people in the sex industry.

In Luibhéid's (2002, 2008) work, sexuality is described as a means for the production (and reproduction) and maintenance of border regimes. The bordering process in particular rejects certain kinds of bodies, sexualities, and genders from entering the territory of a state. Kaye (2017) critically examines how anti-trafficking work is a nation-building project that creates "national entitlements and the citizen-subject against migrant sex workers and gendered and racialized migratory movements, while simultaneously and discursively rendering Indigenous nations and communities as domestic dependents" (p. 157). Walia (2021) argues that the border is "a key method of imperial state formation, hierarchical social ordering, labour control, and xenophobic nationalism" (p. 2). Thobani (2007) critiques the process of racialization as essential to the politics of nation formation with a particular focus on how specific migrants are seen as the "other" within the nation. Thobani's analysis provides a valuable framework for understanding how the Chinese, particularly sex workers, have been constructed as the "other" who endangers the whiteness and nationalism of Canada as far back as the 1900s. Sharma (2001) uncovers how certain people are constructed as foreigners and a "problem" for "Canadians," which results not only in physical exclusion but also ideological and material differentiation from Canadians. Her work also demonstrates how the moral panic of anti-trafficking campaigns constructs foreigners as both dangerous and as victims [of trafficking], serving to make migration illegal and "legitimize increasingly regressive state practices of immigration control" (Sharma, 2005, p. 89) – for example, the immigration regulation prohibits migrants from working in any sex work-related industry.

The scholars discussed in this section apply a critical race, labour, abolitionist, criminal justice, and transnational feminist analysis to challenge the conflation of sex work with trafficking and the production of a victim narrative for migrant sex workers. Taken together, their work demonstrates some of the ways the construction of the human trafficking problem functions as a mechanism of control over migrant sex workers' sexualities, migration, and economic advancement. To further contextualize the laws and policy explored in this paper, it is important to talk about the intersecting criminalization of migration and sex work and to understand how whorephobia, racism, and xenophobia are embedded in these laws and policies, especially from a historical perspective.

The Historical Criminalization of Sex Work and Migration in Canada

In their tracing of the history of sex work, van der Meulen and Durisin (2018) describe how "Canadian criminal laws and social values were greatly influenced by the moral and social

purity movements" (p. 28) from 1860 to 1915. Sex work (then and now) is regulated by laws that concern the control of disease, moral issues, and nuisance. The 1865 Contagious Diseases Act imposed mandatory medical treatment on "prostitutes" who were accused of having a sexually transmitted infection and allowed for their detainment solely on the suspicion of having a "venereal disease" (Backhouse, 1984, 1985). Before 1867, women "could be submitted to vagrancy charges and detention merely for *being* prostitutes" (van der Meulen and Durisin, 2018, p. 28) according to An Act Respecting Vagrants, or the Vagrancy Act, which was used to "remove indigents and undesirables from the streets" (Backhouse, 1984, p. 7). Introduced in 1892, the Criminal Code sought to eradicate sex workers and criminalize procurers, managers, and owners of brothels, but it was the women who sold sexual services who were perceived as "immoral" and disproportionally charged. The criminalization of sex work is a part of the colonial project, and this legacy continues today as anti-sex work laws are still used to target Indigenous women (Hunt, 2015). In 2021, almost 50 percent of all federally incarcerated women were Indigenous, despite Indigenous people making up only about 3 percent of the population (Office of the Correctional Investigator, 2021).

During these earlier eras of legislated migration control, moral panic related to human trafficking and the sexual slavery of "Orientals" was used to justify both increased surveillance and a ban on the migration of Asian women into Canada. As suggested by critical migration scholars, the regulation of sex work is also used to control migration. Canadian immigration legislation has a long history of demonstrating bias against perceived moral, class, gender, and racial statuses. "Prostitutes" and "homosexuals" have historically been targeted because they were perceived as immoral and both groups have been explicitly barred from entering Canada. Similarly, the perceived immorality and sexual promiscuity of Chinese women and their involvement in the sex industry was used to justify the ban on Chinese women's entry into Canada. Like the Page Act in the United States, the very first immigration ban enacted in Canadian legislation prohibited Chinese women associated with sex work from entering Canada. Section 9 of the Chinese Immigration Act of 1885 ordered that "no landing shall be granted to any Chinese woman who is known to be a prostitute" (para 9).

The Immigration Act of 1910 prohibited "women and girls coming to Canada for any immoral purpose" and prohibited sex workers from entering Canada. Concerns over human trafficking further increased the moral panic against migrants and sex workers. In the 1950s, the Immigration Act expanded the category of "immoral purpose" to include "prostitutes, homosexuals or persons living on the avails of prostitution or homosexualism, pimps or persons coming to Canada for these or any other immoral purposes" (Kelley & Trebilcock, 2010, p. 329).

While the Immigration Act of 1976 removed all explicit restrictions based on "morality" and racial prejudice, Canada still controls the mobility of migrant sex workers by imposing economic and social qualifications on them. Racist ideas from the 1885 Immigration Act, which tied racialized notions about Chinese women to involvement in "prostitution and slavery," still strongly influences current laws and policies. Immigration policy continues to engender precarity

and vulnerability among low-income Asian migrant workers. Despite their numbers, as a group, Asian and migrant sex workers in Canada are disempowered from socially and economically overcoming their systematized vulnerability and the challenges created by their immigration status and are harmed by the carceral web that claims to protect them.

The Criminalization of Migrant Sex Workers in Existing Laws and Policies

The historical criminalization of sex work, its perception and regulation as a crime, as immoral, a public nuisance, and a social problem (van der Meulen & Durisin, 2008) persists today in existing laws and policies. Scholars and advocates have argued that "the criminalization of sex workers, their clients and third parties is a key contributor to violence experienced by sex workers, among other repercussions, including stigma and discrimination" (CASWLR, 2017, p. 7). Significant bodies of research provide supporting evidence that criminalizing sex work contributes to ongoing state and non-state harm against sex workers. Trans and women of colour are particularly targeted, especially those who are Black and/or Indigenous (Bruckert, 2015; Bungay & Guta, 2018; Canadian HIV/AIDS Legal Network, 2019; CASWLR, 2018; PIVOT & CASWLR, 2016; Shaver et al., 2011, 2018), and this discrimination acts as a barrier for sex workers access to housing, health, and social services (Krüsi et al., 2014; Krüsi et al., 2016; Canadian HIV/AIDS Legal Network, 2019; Goldenberg et al., 2017; McBride et al., 2020). For example, during the COVID-19 pandemic, because the criminalization of sex work makes sex workers justifiably afraid of disclosing their immigration status, means of employment, and tax history, sex workers were effectively excluded from accessing government financial relief programs such as Employment Insurance and the Canada Emergency Response Benefit (Benoit, 2020). Flagging oneself to the Canadian government as a sex worker carries the risk of life-altering repercussions that extend to loss of child custody, employment, housing, health care, and benefits.

This carceral web includes laws at the federal, provincial, and municipal levels, as well as anti-trafficking policies, which are used to produce the illegality of migrant sex workers in Canada. Anti-sex work, anti-migrant, and racist sentiments are embedded in these laws and policies. The powerful, tangled carceral web these laws produce (including tougher border controls) can have a major impact on the everyday lives of all migrant sex workers, regardless of their immigration status. Sex workers, particularly migrant sex workers, across Canada have reported that they are not able to effectively access state protection when they experience violence from non-state actors and they are simultaneously subjected to social and racial profiling, harassment, surveillance, arrest, detention, imprisonment, and deportation by police and other law enforcement as a result of the criminalization of sex work.

In the next section, I look at *how* different levels of federal, provincial, and municipal laws and bylaws are specifically responsible for these harms against migrant sex workers and how that harm is embedded into the text of the laws and anti-trafficking policies.

How Laws and Policies Harm Migrant Sex Workers

Government and law enforcement agencies at the federal, provincial, and municipal levels claim that greater investigation and policing powers aimed at identifying those who are vulnerable or at risk are necessary to protect victims of human trafficking who work in sex industries. Migrant sex workers tell a different story: "protective" investigations often turn into punitive, criminal, immigration and bylaw investigations against those who, ostensibly, were meant to be protected. These investigations and the corresponding charges, convictions, and deportations negatively affect their lives, endanger their health and safety, increase stigma and isolation, exacerbate vulnerability to abuse and exploitation, and frequently violate their Charter rights (Burke, 2017; CASWLR, 2019; Fudge et al., 2021; Lam, 2018a, 2019a, 2020a, 2020b; Lam & Lepp, 2019; Migrant Workers Alliance for Change, 2022).

As an activist supporting and advocating in sex worker movements, I have witnessed the harm caused by these laws and policies first-hand. I have seen the discordance between what these laws and policies *claim* to do, and what they *actually* do, which is to provide the very tools necessary to oppress and marginalize migrant sex workers. As Graham (2017) argues:

> By framing sex work as an issue of crime, with sex workers being both the perpetrators of crime and the potential victims of exploitative crime, the state is able to legitimise its actions against sex workers, while ignoring the harm done to sex workers by the state. (p. 201)

The cumulative effect of this carceral web of laws and policies is to make sex workers, especially migrant sex workers, more vulnerable to violence and human rights violations (Burke, 2021; Butterfly, 2021a; 2022a; 2022b; Canadian HIV/AIDS Legal Network, 2019; Fudge et al., 2021; Lam, 2019a; Lam & Wong, 2020; Lepp, 2018). Sex workers in Canada report negative experiences and rights violations by law enforcement, including assault, intimidation, unwarranted searches, surveillance, theft, retaliation, and extortion. Many do not find law enforcement, particularly police, to be protective or helpful—rather, they perceive law enforcement agencies as threatening or as sources of harassment and violence (Benoit et al., 2017; Canadian HIV/AIDS Legal Network, 2019). In a research report by the Canadian HIV/AIDS Legal Network (2019), sex workers were interviewed about their experiences with law enforcement and they describe:

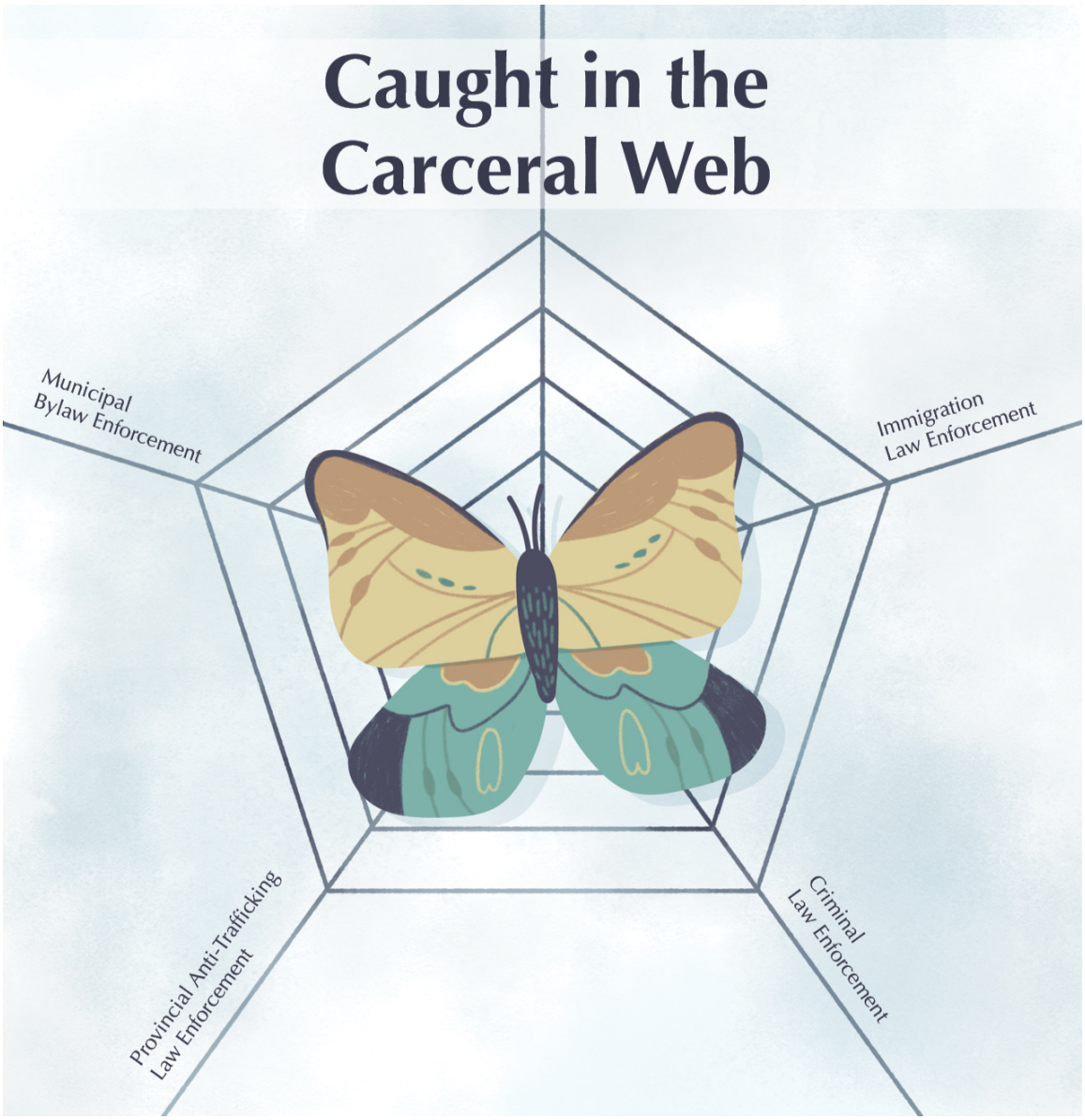
> The harms of living and working in a pervasive context of criminality and the powers that criminal, immigration, human trafficking, municipal, child protection and drug-related laws and policies confer on law enforcement to antagonize, monitor, detain, interrogate, investigate, arrest, charge and deport sex workers. (p. 57)

In the past few decades, Asian and migrant sex workers have been specifically targeted by laws and law enforcement at all (federal, provincial, and municipal) levels. The tangle of laws used against them at different times and in different cities is powerful in its result: skyrocketing numbers of workers are surveilled, arrested, detained, and deported. For example, Asian massage

parlours in Toronto, Vancouver, Hamilton, and elsewhere were raided in the name of protecting trafficked victims. These raids often resulted in the harassment and abuse of sex workers; women reported being treated like criminals and some were detained and deported. Such raids continue across Canada.

In the following three sections, I will take a closer look at how specific federal, provincial, and municipal laws and bylaws harm migrant sex workers and how these laws work in concert with anti-trafficking discourses and policies.

Figure 1



Note. This image, drawn from the report *Caught in the carceral web: Anti-Trafficking laws and policies and their impact on migrant sex workers,* illustrates the "endless web of

> criminality" and "the interrelated law enforcement regimes" of the carceral web (Fudge, et. al., 2021, p. 13).

Federal (Criminal, Human Trafficking, and Immigration) Laws

As noted earlier, efforts to decriminalize sex work in Canada currently focuses on resistance to PCEPA, which was introduced after the Supreme Court of Canada struck down *three* Criminal Code provisions related to sex work, including "communicating," "living on the avails," and "bawdy house" offences (*Canada [AG] v. Bedford*, 2013). The 2013 court decision states that:

> The prohibitions at issue do not merely impose conditions on how prostitutes operate. They go a critical step further, by imposing *dangerous* conditions on prostitution; they prevent people engaged in a risky—but legal—activity from taking steps to protect themselves from the risks. (para. 60)

The court struck down the provisions on the grounds that these prohibitions violated Section 7 of the Charter, which covers constitutional rights to life, liberty, and security of the person. However, as a result of lobbying efforts by anti-trafficking, anti-sex work, and Christian evangelical organizations, members of Prime Minister Stephen Harper's Conservative government subsequently introduced Bill C-36, which eventually became PCEPA. PCEPA received royal assent in 2014 and used an "end-demand legal model" in which "the ending exploitation" and "the anti-human trafficking argument is a strong one to justify criminalization of sex work" (Durisin & van der Meulen, 2021).

Although the federal government claimed that the aim of PCEPA was to protect those who sell their own sexual services, sex workers' rights organizations assert that it was enacted to eradicate the sex industry and "protect" the public from the sex industry through coercive state power. The preamble of PCEPA specifically states that the Government of Canada wants to "encourage those who engage in prostitution to report incidents of violence and to leave prostitution."

Under PCEPA, sex work is defined as inherently harmful and is conflated with sexual exploitation. Sex workers (who are defined as victims) are criminalized, as are clients and third parties (e.g., bosses, managers, or operators). Supporters of the "end-demand" model promote the myth that those who sell sexual services are not the ones being criminalized. This is not true. Despite the Act's premise, that sex workers who sell and advertise their own services have immunity from prosecution, PCEPA effectively made prostitution illegal in Canada. Sex workers are harmed by PCEPA's criminalization in many ways (Amnesty International, 2022; Bruckert, 2015)—for example, they can be evicted for being involved in criminal activities, and they can be charged when they work with other sex workers. Despite Canadian government and anti-sex work lobby groups' claims that the criminalization of sex work is meant to protect women (and related claims that the end-demand model does not criminalize sex workers), since 2014, the majority of people charged under PCEPA with procuring and receiving material benefits were women (Allen & Rotenberg, 2021). Many of PCEPA's criminal offences criminalize sex workers, including purchasing or communicating for the purpose of purchasing sexual services (s.

286.1), communicating to provide sexual services (s. 213.1), receiving a material benefit (s. 286.2), procuring (s. 268.3), and advertising sexual services (s. 286.4). In effect, PCEPA further marginalizes sex workers and renders them more susceptible to harm:

> As long as criminal law regulates sex workers' lives and working conditions, sex workers will continue to try to avoid detection by law enforcement, live and work in precarious conditions, not seek help or report crimes against us, and will remain surveilled, policed, and more vulnerable to targeted violence and exploitation. (CASWLR, 2021, p. 1)

This federal level of criminalization affects sex workers in ways that can be clearly seen and heard in the experiences of sex workers themselves, specifically around their decreased access to cooperation and assistance from clients and third parties, which is particularly essential for migrant sex workers. PCEPA is a barrier to establishing vital working relationships and accessing protective support from clients, managers, receptionists, drivers, partners, and other sex workers. Third parties and clients are often essential supports for migrant sex workers because they can help them overcome language barriers, organize their work, implement safety measures, access resources and community support, and have greater control of their working environment. McBride et al. (2019) demonstrate that migrant sex workers more often rely on third parties than do Canadian-born sex workers. For example, migrant sex workers found that as a result of the prohibition on advertisement, websites that hosted their advertising were shut down, which increased their advertising costs and decreased their control over content. Furthermore, asking friends, family, and clients for help is punishable by law, which makes it difficult for migrant sex workers to find people to assist them in setting up and maintaining advertising. The prohibition on advertising also makes it increasingly difficult for migrant sex workers to find new employers and/or change their working conditions. Criminalization, in general, also reduces the ability of sex workers to prevent violence (e.g., by making it difficult to screen clients).

The law frames clients as abusers, but, in reality, clients are often crucial resources and part of the support system for migrant sex workers because they may help a migrant sex worker achieve a better working environment or increase their autonomy. In their February 2022 submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the PCEPA, the advocacy group Butterfly cited some of the ways that clients aid migrant sex workers:

> Clients have also provided direct social, emotional, and financial support to sex workers. For example, Butterfly participants have reported that clients have assisted them with: advertising; renting spaces; managing documents; driving them to health appointments; referring them to other resources; navigating Canadian systems and policies; assisting them with travel arrangements to visit their home countries; and escaping violent situations and bad working conditions. (Butterfly, 2022a, p. 4)

Criminalization means that this type of help can incur the risk of criminal liability for the client and the worker and falls under conduct that may lead to significant criminal penalties. Some

clients may also hesitate to provide support because they do not want to be visible and identified (Argento et al., 2019; Butterfly, 2022a; Sterling & van der Meulen, 2018).

Third parties such as landlords, receptionists, drivers, agents, managers, or employers are also important sources of support for migrant sex workers, particularly those with limited resources. Third parties might rent a workplace or accommodations, purchase supplies or advertising, coordinate appointments with clients, offer transportation, and so on. Some migrant sex workers may not, or do not want to, run their own businesses and prefer to work with other people or access support from others. For example, "working at a managed establishment can benefit migrant workers with limited access to funds, since they can start working without paying overhead costs like rent and advertising fees" (Butterfly, 2022a, p. 5). Under the existing PCEPA laws, however, the support and collaboration of third parties, including among friends, family, and other community members (particularly Asians), is described as "human trafficking" and "organized crime." The result is that the agency of migrant workers to access and build helping relationships is itself criminalized (Butterfly, 2022a; Lam, 2019; Migrant Workers Alliance for Change, 2022).

This is especially dangerous because the very real risk of also being criminalized on the basis of immigration status and racism blocks more formal channels for accessing state-run support. This increases the vulnerability of sex workers to perpetrators, who target sex workers because they know they fear surveillance, detection, and apprehension by law enforcement and that police are less likely to investigate crimes committed against sex workers (Argento et al., 2019; CASWLR, 2022; Santini & Lam, 2017). In this way, the criminalization of sex work not only increases racial profiling, policing, and unwanted police presence (in other words, violence by state actors), it also "forces sex workers to work in a criminalized context where [they] are isolated from supports, made vulnerable to exploitation, eviction and subpar working conditions, and targeted for violence" (CASWLR, 2021, para 9). CASWLR advocates for the full decriminalization of sex work because the legal prohibitions of the Criminal Code in fact "violate sex workers' constitutional rights to security, autonomy, life, liberty, free expression, free association and equality" (2021, para 1).

In June 2022, the parliamentary Standing Committee on Justice and Human Rights released a report on the review that urged "the Government of Canada [to] recognize that protecting the health and safety of those involved in sex work is made more difficult by the framework set by the *Protection of Communities and Exploited Persons Act* and acknowledge that, in fact, the Act causes serious harm to those engaged in sex work by making the work more dangerous" (p. 37). It also recommends the repeal of the immigration prohibition of sex work found in 183 (1)(b.1), 196.1(a), 200(3)(g.1), and 203(2)(a) of the Immigration and Refugee Protection Regulations, which increases the risk of violence and endangers the safety of the migrant sex workers. While CASWLR (2022) is pleased to see the recommendation to repeal some of the criminal sections, they are disappointed that the government fails to acknowledge the need to remove law enforcement from the lives of sex workers; that it did not recommend the

repeal of the other PCEPA provisions; and that it did not take action to repeal the laws immediately. CASWLR also argues that rather than addressing the violence, increasing resources to police and creating more criminal laws will maintain the presence of law enforcement in the lives of sex workers.

Constitutional Challenges to PCEPA

In 2020, the Ontario Court of Justice found that federal laws against procuring, materially benefiting from, and advertising sex work were in violation of a persons' Charter rights to "security of the person" (*R v. Anwar*, 2020). In that case, Hamad Anwar and Tiffany Harvey, owners of an escort agency in London, Ontario, were charged under s. 286.2(1) (receiving a material benefit), s. 286.3 (1) (procuring), and s. 286.4 (advertising sexual services). In March 2021, the Ontario Superior Court of Justice in another case (*R v. N.S., 2021*) also determined that s. 286.2, s. 286.3(1), and s. 286.4 of the Criminal Code were unconstitutional. These provisions of the Criminal Code prevent sex workers from assisting other sex workers, which prohibits them from "taking steps for their safety and health as envisaged by the Supreme Court of Canada in *R. v. Bedford*" (*R. v N.S.*, 2021). Following these decisions, several other courts in Ontario have upheld these same provisions. In 2022, the Court of Appeal for Ontario reversed the findings of the application judge by ruling the related sections are constitutional. The sex worker community is very disappointed with the decision.

In 2021, the CASWLR, formed by 25 sex worker-led groups across the country, along with six individual co-applicants (including five sex workers and one ex-owner of an escort agency), launched a new constitutional challenge to strike down the criminal prohibitions on sex work, including: communication in public to sell sexual services (s. 213); to obtain, or communicate to try to obtain, sexual services (s. 281.1(1)); materially benefiting (s. 286.2(1)); procuring (s. 286.3(1)); and advertising of sexual services (s. 286.4). This is the first constitutional challenge led by sex workers to challenge all the major sex work offences. CASWLR's report (2022) states that sex workers are forced to go back to court because, despite the Liberal government's promise to repeal PCEPA in 2014, they have failed to do so. They argue that the PCEPA "violates the human rights to dignity, health, equity, security, autonomy, and safety of people who work in the sex industry, which includes the right to safe working conditions" and that the Charter rights of sex workers are violated, including the right to life, liberty and security (*Canadian Charter*, 1982, s7), equality and non-discrimination (*Canadian Charter*, 1982, s15), freedom of expression (*Canadian Charter*, 1982, s(2)(b)), and to freedom of association (*Canadian Charter*, 1982, s(2)(d)). Sex workers, academics, researchers, and human rights organizations provided a robust evidentiary record to the court in the constitutional challenge to demonstrate the harms of PCEPA.

The intervenors include organizations from a variety of different movements, including Amnesty International Canada, British Columbia Civil Liberties Association, Black Legal Action Centre, Canadian Association of Refugee Lawyers, Canadian Civil Liberties Association, Egale Canada, The Enchanté Network, Women's Legal Education and Action Fund (LEAF), Migrant

Workers Alliance for Change, Ontario Coalition of Rape Crisis Centres, and the Sexual Health Coalition (HIV & AIDS Legal Clinic Ontario, Coalition des organismes communautaires québécois de lutte contre le sida [COCQ-SIDA], and Action Canada for Sexual Health and Rights). These organizations had provided factum and submitted their position on how the PCEPA is harmful to and violates the rights of sex workers, including migrant, Black, Indigenous, racialized, and trans sex workers. The Canadian Association of Refugee Lawyers and Migrant Workers Alliance for Change also participated to show how non-citizen sex workers are harmed by the intersection of immigration laws, criminal laws, and municipal bylaws.

During the hearing, over 150 sex workers and supporters across these social movements rallied outside the Ontario Superior Court to show their support and call for the decriminalization of sex workers. However, police, faith-based groups, and anti-sex work organizations used the discourse of human trafficking to call for a carceral approach and the further criminalization of sex workers. This constitutional challenge is ongoing but may take several years as it must go through the Court of Appeal for Ontario and the Supreme Court of Canada.

Human Trafficking Laws

In addition to the criminal offences related to sex work, sections of the Criminal Code related to human trafficking are also used to criminalize people who work in the sex industry. Migrant sex workers are often identified by the federal government as one of the groups most at risk of human trafficking (Public Safety Canada, 2012). As Jeffrey (2005) asserts:

> The Canadian government has chosen to adopt the victimist view of migrant sex-work as trafficking; a view which underwrites a policy of stricter criminal and border controls that only makes migrant sex-workers' lives more, not less, difficult and most certainly precludes addressing the rights of sex-workers and migrants. (p. 37)

According to Kaye (2017), "existing anti-trafficking responses and the use of anti-trafficking discourses to shape policies... are of little interest to trafficked persons and harmful to sex workers, migrants and others" (p. 11). Rather than protecting women, human trafficking laws exacerbate the vulnerability and marginalization of migrant sex workers and prevent them from accessing protection (Butterfly, 2021b).

In 2000, Canada was one of the first countries to ratify the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and to adopt the anti-trafficking framework of that convention. In 2005, new anti-trafficking sections were also introduced into the Criminal Code. These additions criminalize anyone who "recruits, transports, transfers, receives, holds, conceals or harbours a person, or exercises control, direction or influence over the movements of a person, for the purpose of exploiting them or facilitating their exploitation" (s. 279.01(1)). These sections also criminalize anyone who receives a "financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the commission of an offence" (s. 279.02(1)) for the purpose of trafficking, as well as the "concealing, removing, withholding, and destroying any travel document that belongs

to another person or any document that establishes or purports to establish another person's identity or immigration status" (s. 279.03(1)). It is critical to note that despite these sections being directly related to sex work, only a very small number of people charged with these offences have been convicted (Millar & O'Doherty, 2020). Between 2018 and 2019, over 89 percent of human trafficking charges were stayed, withdrawn, dismissed, or discharged (Ibrahim, 2021).

Immigration Laws and Policies

Immigration laws and policies are also used against migrant sex workers. Sharma (2005) examines how the moral panic surrounding trafficking legitimizes the state's repressive immigration control practices. Her work demonstrates how governments legitimize the practice of categorizing certain bodies, which leads to perceptions of them as threats to national security. Further, Sharma argues that anti-trafficking discourses are mobilized to label migrants, particularly migrant women involved in sex work, as trafficked victims, thus "portraying migration as the cause of exploitation" (Sharma, 2005, p. 96), in effect making immigration illegal by imposing immigration restrictions. This policy, as Burke (2018) shows, has a particular impact on migrant trans women sex workers as they face an even greater risk of having to confront immigration and criminal law enforcement.

To illustrate how the Immigration and Refugee Protection Act (IRPA) in Canada harms migrant sex workers, I will examine several sections that affect migrant sex workers. Despite the criticism of the double punishment of criminal inadmissibility, Section 36 of IRPA states that anyone who does not have full citizenship may become inadmissible if charged and convicted under PCEPA (or other criminal) provisions, which means they will lose their immigration status and face an immigration order to leave Canada if they are convicted of an offence that is punishable by a maximum term of imprisonment of at least 10 years, regardless of the sentence imposed, or if they are sentenced to over six months imprisonment.

Furthermore, immigration officers have the power to refuse a foreign national legal authorization to work or study in Canada if the officers believe that that person is at risk of being a victim of exploitation or abuse. The stated aim of IRPA is to "protect foreign nationals who are at risk of being subjected to humiliating or degrading treatment, including sexual exploitation" (Section 30 [10]). This obscures the fact that control of migration facilitates the continued precarity, exploitation, and abuse of migrant workers by denying them full status upon arrival.

Lastly, in 2002, new anti-trafficking laws were introduced under Section 118 that make it an offence to use abduction, fraud, deception, or the threat of force or coercion to bring (including recruiting, transporting, receiving, or harbouring) people into Canada (Daley, 2017). A violation of Section 118 is punishable by life imprisonment and/or a fine not exceeding $1 million. Fudge et al. (2021) argue that this provision is used to racially profile migrant women.

Other sections of IRPA are aimed at prohibiting migrants from working in the sex industry. In 2012, the federal government introduced new measures into the *National Action*

Plan to Combat Human Trafficking to prohibit anyone working in the sex trade from accessing the Temporary Foreign Workers Program (Public Safety Canada, 2012). Current immigration laws also prohibit any migrant from working in sex work or any related industry, even if they otherwise have an open work permit and legal authorization to work in Canada. Sections 183(1)(b.1) and 196.1(a) prohibit all temporary residents from "entering into an employment agreement, or extending the term of an employment agreement, with an employer who, on a regular basis, offers striptease, erotic dance, escort services or erotic massages." In 2022, the Standing Committee on Justice and Human Rights recommended the repeal of this regulation.

Despite IRPA's stated aim of protecting trafficking victims, those who are self-employed in sex work-related industries are also prohibited from working under Sections 200(3) (g1) and s200 (2)(a). In this way, migrant sex workers risk having their work permits and temporary immigration status revoked and risk deportation if they are caught working in any sex work-related industry, including otherwise legally regulated businesses such as strip clubs and massage or body rub parlours.

An added layer of risk to migrant sex workers is that they often become inadmissible as immigrants or refugees merely by providing false or inconsistent information to Immigration, Refugee and Citizenship Canada (IRCC) or to the Canada Border Services Agency (CBSA). Recognizing the prohibition of, criminalization of, and discrimination against sex work, migrant sex workers often choose not to disclose their engagement in sexual services, which can be considered immigration fraud or misrepresentation and carries its own very real risk of immigration detention and deportation.

Provincial Laws

Each province has strategies and legislation that claim their purpose is to protect trafficked victims and address the issue of human trafficking. Extensive lobbying by anti-sex work organizations has increased the conflation of human trafficking with sex work, which in turn has led to an increase in the policing of migrant sex workers, with the overarching goal of forcing workers to exit sex work. Ontario is being described as a hub of human trafficking (Leslie, 2015), which justifies the call for increases in funding and enforcement and the introduction of anti-trafficking policy to end human trafficking. The Ontario government has also recently introduced various anti-trafficking acts that have extensively increased the power of law enforcement, which I will explore here.

In 2016, the Ontario government released its first provincial *Strategy to End Human Trafficking*, allocating $72 million to social services organizations across the province to develop programs targeting human trafficking. De Shalit et al. (2021) interviewed 22 service providers who received funding from the Ontario government for anti-trafficking programming. They conclude:

> These organizations largely pathologize sex work and sex workers, rendering purported victims both agency-less and responsible. Those who access services must demonstrate a

> desire to remedy their exploitation and abuse by distancing themselves from sex work and/or drug use, as well as heal from the conditions that purportedly make them vulnerable to becoming involved in sex work in the first place, such as a history of drug use/dependence, trauma and low self-esteem. Simultaneously, they must accept the victim label and surrender to state-guided rescue. (p. 12)

Although the focus of provincial anti-human trafficking policies is often on youth sex workers, adult sex workers (particularly Asian and migrant workers) are also negatively affected (Durisin & van der Meulen, 2021).

After the introduction of the Anti-Human Trafficking Act in 2017, which allowed victims to apply for restraining orders against their traffickers, the Ontario government announced the allocation of $307 million towards combating human trafficking in 2020. They also passed the Combating Human Trafficking Act, or Bill 251, in June 2021. Raids on Asian sex workers are used to justify this repressive Act. Although the Ontario government claims that the purpose of this Act is to detect traffickers and protect trafficked victims, in actuality it expands the powers of police and law enforcement. For example, the Act gives power to provincial inspectors to enter (without a warrant or notice) any workplace. Inspectors are also given the power to examine, demand, remove, or copy anything that "is or may be relevant to the inspection" and to "question a person on any matter that is or may be relevant to the inspection." Fines of $50,000 to $100,000 can be imposed on individuals or corporations for non-compliance (Combating Human Trafficking Act, 2021). Justice for Children and Youth (2021) also has "serious concerns regarding the expanded apprehension and detention power, its impact on children's rights to liberty and equality, and its efficacy as a measure to assist victims of exploitation and trafficking" (p. 1).

Advocates across movements for sex worker and migrant rights and racial justice, including Durham Community Legal Clinic, Justice for Children and Youth, the Black Legal Action Centre, and No Pride in Policing Coalition, among others, express their concerns about the dangers of Bill 251. Many human rights organizations have also expressed their concern. The Black Legal Action Centre and No Pride in Policing Coalition have described how the law will consequently increase surveillance, discrimination, and violence against marginalized people and perpetuate anti-Black and anti-Asian racism. Dangers include heightened racism, the expansion of unchecked police and law enforcement power, and pushing precarious, vulnerable, and marginalized sex workers further underground and away from supports and services (Butterfly & HIV Legal Network, 2021). Advocates argue that "this legislation will further compound the conflation of human trafficking with sex work, and sex workers—particularly Black, Indigenous, Asian and otherwise racialized and migrant sex workers" (HIV Legal Network & Butterfly, 2021). Unfortunately, despite the strong opposition from experts, including health and legal advocates, the bill passed unanimously. The passing of Bill 251 will increase the harm inherent in anti-trafficking enforcement, exemplified by "raid-and-rescue" operations such as Operation Northern Spotlight, Project Orphan, Project Orchid, and Project Crediton, which were carried out

by the RCMP, Ontario Provincial Police (OPP), bylaw enforcement officers, CBSA, and other police forces.

Municipal Laws and Bylaws

Migrant sex workers often work at venues in which clients come to their workplace. These are called "in-call" venues and include strip clubs, massage parlours, body rub parlours, apartments, and condominiums. Municipalities use bylaws and licensing regulations to target sex work-related businesses by imposing special limits on them (Auger, 2014; Chuen, 2021; Goldenberg et al., 2017; Lam et al., 2021; Malla et al., 2019; Montgomery, 2021; Shih, 2021; van der Meulen & Durisin, 2008; van der Meulen & Valverde, 2013). At the municipal level, bylaws and municipal polices that regulate "holistic centres," body rub parlours, and other workspaces are often draconian and punitive in practice and are deployed for the purpose of making sex work difficult for all involved (Lam & Wong, 2020).

Under the guise of anti-trafficking initiatives, a repressive and punitive approach that uses restrictive bylaws (e.g., zoning and licensing requirements), excessive inspections, and prosecutions leads to increases in raids carried out by police, bylaw officers, and CBSA (Canadian HIV/AIDS Legal Network, 2019; Lam, 2016, 2018a, 2019b; Lam et al., 2021; Montgomery, 2021). Migrant sex workers, particularly Asian workers in massage parlours, are increasingly the targets of these raids and inspections which heightens their vulnerability to violence and leads to loss of income (Anderson et al., 2015; Bungay et al., 2012; Chuen, 2021; Ivy et al., 2021; Lam, Gallant & Wong, 2020; Lam & Wong, 2020; Shih, 2021).

Municipal bylaws have become the battleground for anti-sex work organizations to embed moral panic into law and to criminalize and discriminate against sex workers through the control, regulation, and shutting down of sex workers' workplaces, which may or may not offer massage, sexual, or erotic services. The uncritical responsiveness of municipalities to the influence of anti-sex work lobbying has gone largely unchecked, with challenges to the implementation and enforcement of these bylaws coming mostly from sex worker organizations themselves.

For example, three months after the 2021 Atlanta shooting of eight sex workers, six of whom were Asian women, the town council in Newmarket, Ontario, passed a Personal Wellness Establishments bylaw to drive sex workers out of town. This repressive new bylaw dismissed the experiences and skills of the Asian workers, and excluded (by design) poor, non-English speaking and Asian workers in a concerted attempt to stifle their ability to work and to shut down their businesses (Chuen, 2021; Mortfield, 2021). Three months after the launch of the new bylaw's business application process, not a single Asian-run business applicant had succeeded in meeting the bylaw's requirements. Unable to obtain licenses, some of these businesses were shut down and received heavy fines (Butterfly, 2022c).

Bylaws, such as the one in Newmarket, also provide a foundation for increased police presence and, correspondingly, increase the number of charges brought against migrant sex

workers. Bylaws and bylaw enforcement are often oppressive, heighten workers' vulnerability, and put them in danger (Lam & Wong, 2020). For example, bylaws in Toronto forbid workers at massage and body rub parlours from locking their doors while waiting for a client, even though these workplaces are often located in low-traffic, isolated industrial areas due to anti-sex work zoning requirements. Bylaws also often prohibit sexual services and sexual contact, dictate restrictive hours of operation, and mandate what clothing (including undergarments) workers are allowed to wear. These draconian and invasive measures are some of the most egregious examples of harm against sex workers and it is difficult to imagine how they can, in any way, be viewed as "protective." Although municipal bylaw officers have the power to enter and investigate licensed venues, raids are often carried out as joint operations with the police and CBSA. Joint enforcement strategies integrate different levels of laws (federal, provincial, municipal) and policing to act against everyone involved in the sex work or massage industries. In one fell swoop, joint enforcement actions can lay criminal charges, impose infraction charges of bylaws, shut down the business, and deport migrants. Similar repressive bylaws, policing strategies, and attempts to shut down Asian migrant massage parlours are taking place in cities such as Hamilton, Markham, and Newmarket (Butterfly, 2021b).

In 2019, the City of Toronto proposed eliminating the holistic license itself, which is held by more than 2,000 workers, most of whom are Asian immigrants. In response, more than 300 workers and allies advocated for the rights of these workers at City Hall in Toronto. The review of bylaws regulating holistic centres and body rub parlours has been delayed because of the pandemic (Butterfly,2020), but at the time of this writing, these 2,000 workers are still at risk of losing their licenses and their jobs.

The influence over, and targeted use of, the secular municipal process and bylaw services, which are intended to serve a diverse public in one of the most multicultural regions in the world, would likely concern the public if it were more widely known. The deliberate creation of a bylaw enforcement regime so repressive that it has forced punitive measures and closures on an entire class of racialized businesses and workers, on the basis of racialized moral panic, should invite robust questioning from those who the process is intended to serve.

Anti-Trafficking Policies

Westerners often categorize sex workers from the Global South as trafficked victims or sex slaves. This construction of trafficked victims is mainly focused on racialized and migrant (cis) women sex workers (Doezema, 2001; Kempadoo 2001). In 2010, the RCMP report entitled *Human Trafficking in Canada: A Threat Assessment* described Asian and Eastern European women involved in the sex industry as "linked to organized criminal activities," "organized crime," or "prostitution rings" (p. 1). The *National Plan to Combat Human Trafficking* states that "non-Canadian victims are often brought to Canada from countries in Asia" (Public Safety Canada, 2012, p. 6). Since the law and law enforcement conflates sex work with human trafficking, and migrant sex workers with trafficking victims, these laws are then used broadly against migrant sex workers.

Anti-trafficking policies are thinly veiled examples of anti-Asian racism, sexism, and classism (Butterfly, 2021b). These policies frequently target Asian massage parlours which are conflated with human trafficking rings. Often deemed inoperable, illicit, or unprofessional, these establishments are forced to shut down. The specific targeting of Asian massage parlour workers is shamelessly obvious in the naming of operations like Hamilton's 2019 Orchid Project (Hamilton Police Services, 2019).

All levels of government in Canada have formulated and implemented national anti-trafficking plans and policies. At the national level, Public Safety Canada states that the aim of the government is to prevent trafficking from occurring, protect victims of trafficking, bring its perpetrators to justice, and build partnerships domestically and internationally (Public Safety Canada, 2010, 2012). However, according to Santini and Lam (2017):

> Aggressive anti-trafficking initiatives have resulted in increased operations and raids of sex workers' workplaces... workers may be charged with a trafficking offence, even in the absence of exploitation, if they work with, receive material benefits from, or assist other sex workers to enter or work in Canada. (p. 11)

Aggressive anti-trafficking initiatives have resulted in increased surveillance and raids of migrant sex workers' workplaces. Government officials, law enforcement, and anti-trafficking organization claim that anti-trafficking investigations are intended to rescue the victims and target the traffickers. However, anti-trafficking laws often turn into criminal and immigration investigations against migrant sex workers (Hempstead, 2015), which frequently results in raids, racial profiling, shutting down of businesses, abuse of workers, detention, and seizure of property, as well as the arrest, imprisonment, and deportation of migrant sex workers. For example, "Project Crediton, which was carried out by the OPP anti-human trafficking team in 2020, did not result in a single human trafficking charge, but did lead to multiple sex work charges being laid, illustrating how human trafficking initiatives have been conflated with sex work and justifying the escalation of law enforcement intrusions in sex workers' workplaces" (Chu, 2021, p.753).

For migrant sex workers, federal laws serve to criminalize their support networks which are framed as organized crime rings. In the Project Crediton investigation, Asian people were charged and imprisoned for organizing or participating in organized crime, despite none of the workers having complained about being exploited or trafficked.

Women who were identified as "trafficked victims" as part of a Canada-wide prostitution ring raid were deported (Lam, 2018a) or were identified as criminal and imprisoned. Migrant sex workers, particular non-English speaking Asian workers, are often perceived as trafficked victims to justify criminalization, repressive laws, and enforcement under the guises of protection and rescue. As Kaye (2017) suggests, anti-trafficking representation reproduces cycles of dehumanization and objectification by "representing people as "unable to speak for themselves and waiting to be saved." Such dehumanization reinforces stigma and criminalization" (p. 9). In one study, in which 18 Asian and migrant sex workers were interviewed, they reported

harms caused by anti-trafficking enforcement (Lam, 2018a) and described how the scale of surveillance, investigation, arrests, and incarceration have increased alongside their increased concerns with and funding of anti-human trafficking.

Conclusion

Over one hundred years have passed since the moral panic over human trafficking and the sexual slavery of "Orientals" was used to justify the surveillance of Asian women, particularly sex workers, and block their migration. Today, racist assumptions about Asian women's involvement in "prostitution and slavery" are actively promoted by anti-trafficking organizations to justify the targeting and oppression of Asian women, especially sex workers. This anti-sex work discourse is rooted in white saviourism and victim discourse that claims Asian migrant sex workers are vulnerable, passive, ignorant, and trafficked victims. This victim discourse is used to justify increased racial profiling, surveillance, policing, and harmful raids framed as helpful "rescues," the majority of which uncover no evidence of coercion, exploitation, or human trafficking. The carceral web of sex work-related federal, provincial, and municipal laws and bylaws are instead used to charge sex workers and the people who work with them during those investigations (CASWLR, 2018; Toronto Network Against Trafficking in Women, 2000) and ends with Asian and migrant sex workers being subjected to harassment, surveillance, charges, fines, arrests, detainment, deportation, and imprisonment. The carceral web is so powerful because different laws are often implemented together to punish migrant sex workers for their immigration status or for the work they do.

Sex workers themselves are clear: evicting them from their working and living spaces, depriving them of income and livelihood, and enacting laws and policies that punish them, pushes them underground and exposes them to police brutality and to other aggressors as well as to physical and sexual violence, exploitation, and murder. Like all workers, they do not want to be devalued as community members and skilled workers. Sex workers' voices must be heard above all others, beyond the discourses of illegality and victimization, which work hand in hand to render migrant sex workers more susceptible to harm, vulnerability, and marginalization. The conflation of sex work with human trafficking and the aggressive enforcement of anti-sex work/anti-trafficking laws must end. It causes significant harm to sex workers, including obstructing their ability to access both informal and formal social services and supports.

As proposed by migrant sex workers and advocates, they must lead the way when it comes to decision-making related to taking action or finding solutions. This is the path to justice and to improving the health, safety, and dignity of migrant sex workers. It is important to recognize migrant sex work as work, eliminate the discrimination that separates migrant sex workers from other workers, remove the label of "trafficked victim," and respect their agency.

Migrant sex workers are fighting for the decriminalization of sex work (including all aspects of sex work) and the repeal of immigration laws prohibiting sex work, access to full immigration status, the repeal of repressive municipal bylaws, the immediate cessation of law enforcement raids and intrusions into workplaces, as well as full labour and human rights.

Listening to these calls, and amplifying them, will reduce migrant sex workers' vulnerability, prevent exploitation, and support them in resisting violence and oppression (Butterfly, 2021c).

References

An Act respecting Vagrants, 1869

Agustín, L. (2006). The disappearing of a migration category: Migrants who sell sex. *Journal of Ethnic and Migration Studies*, *32*(1), 29–47. https://doi.org/10.1080/13691830500335325

Agustín, L. (2007). Working to travel, travelling to work. In *Sex at the margins: Migration, labour markets, and the rescue industry* (pp.10–52). Zed Books. https://doi.org/10.5040/9781350222496

Allen, M., & Rotenberg, C. (2021, June 21). Crimes related to the sex trade: Before and after legislative changes in Canada. *Statistics Canada*. https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00010-eng.htm

Amnesty International. (2022, February 25). Submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act. https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11643817/br-external/AmnestyInternational-e.pdf

Anderson, S., Jia, J. X., Liu, V., Chattier, J., Krüsi, A., Allan, S., & Shannon, K. (2015). Violence prevention and municipal licensing of indoor sex work venues in the Greater Vancouver Area: Narratives of migrant sex workers, managers, and business owners. *Culture, Health & Sexuality*, *17*(7), 825–841. https://dx.doi.org/10.14288/1.0315336

Argento, E., Goldenberg, S., Braschel, M., Machat, S., Strathdee, S. A., & Shannon, K. (2020). The impact of end-demand legislation on sex workers' access to health and sex worker-led services: A community-based prospective cohort study in Canada. *PloS ONE*, *15*(4). 5(4):e0225783. https://doi.org/10.1371/journal.pone.0225783

Auger, C. (2014). Criminalized and licensed: Local politics, the regulation of sex work, and the construction of "ugly bodies." In Carisa R. Showden & Samantha Majic (Eds.), *Negotiating sex work* (pp. 99–120). University of Minnesota Press. https://doi.org/10.5749/minnesota/9780816689583.003.0005

Backhouse, C. (1984). Canadian Prostitution Law 1839–1972. In Canadian Advisory Council on the Status of Women (Ed.), *Prostitution in Canada* (pp. 7–18). The Council. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2280480

Backhouse, C. (1985). Nineteenth-century Canadian prostitution law: Reflection of a discriminatory society. *Social History/Histoire Sociale*, *18*(36), 387–423. https://hssh.journals.yorku.ca/index.php/hssh/article/view/37618

Benoit, C., Jansson, M., Smith, M., & Flagg, J. (2017). "Well, it should be changed for one, because it's our bodies": Sex workers' views on Canada's punitive approach towards sex work. *Social Sciences*, *6*(2), 52. https://doi.org/10.3390/socsci6020052

Benoit, C. (2020, October 16). COVID-19 benefits exclude sex workers in Canada. *Policy Options*. https://policyoptions.irpp.org/magazines/october-2020/covid-19-benefits-exclude-sex-workers-in-canada/

Bernstein, E. (2010). Militarized humanitarianism meets carceral feminism: The politics of sex, rights, and freedom in contemporary antitrafficking campaigns. *Signs, 35*(1), 45–71. https://doi.org/10.1086/652918

Bernstein, E. (2012). Carceral politics as gender justice? The "traffic in women" and neoliberal circuits of crime, sex, and rights. *Theory and Society, 41*(3), 233–259. https://doi.org/10.1007/s11186-012-9165-9

Bill C-36*, An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v Bedford and to make consequential amendments to other Acts*. (2015). 41st Parliament, 2nd session. https://www.parl.ca/LegisInfo/en/bill/41-2/C-36?view=details

Bill 251, *Combating Human Trafficking Act. (2021).* 1st Reading Feb. 22, 2021, 42nd Parliament, 1st session. https://www.ola.org/en/legislative-business/bills/parliament42/session-1/bill-251/debates

Bruckert, C. (2015). Protection of Communities and Exploited Persons Act: Misogynistic law making in action. *Canadian Journal of Law & Society, 30*(1), 1–3. https://doi.org/10.1017/cls.2015.2

Bungay, V., Halpin, M., Halpin, P. F., Johnston, C., & Patrick, D. M. (2012). Violence in the massage parlour industry: Experiences of Canadian-born and immigrant women. *Health Care for Women International*, *33*(3), 262–284. https://doi.org/10.1080/07399332.2011.603868

Bungay, V. & Guta, A. (2018). Strategies and challenges in preventing violence against Canadian indoor sex workers. *American Journal of Public Health*, *108*(3), 393–398. https://doi.org/10.2105/AJPH.2017.304241

Burke, N. B. (2017). Double punishment: Immigration penalty and migrant trans women who sell sex. In Durisin, E .M., Emily van der Meulen, E. & Bruckert, C. (Eds.), *Red light labour: Sex work. Regulation, agency, and* resistance (pp. 203–212). UBC Press.

Butterfly. (2016). *Journey of Butterflies.* https://www.butterflysw.org/legal-information-for-services-prov

Butterfly. (2020). *Safety for all/respect for all: Protecting the safety of workers in holistic centres and body rub parlours by allowing them to lock their doors.* https://576a91ec-4a76–459b-8d05–4ebbf42a0a7e.filesusr.com/ugd/5bd754_50b08bb810734d928a0ead40faf0dca1.pdf

Butterfly. (2021a, March 28). Stop racism against Asian migrant massage workers and sex workers. *Toronto Solidarity Rally Against Anti-Asian Racism.* https://ccncsj.ca/wp-content/uploads/2021/03/Statement-of-Unity-Solidarity-Rally-Against-Anti-Asian-Racism-March-28-2021.pdf

Butterfly. (2021b). *Call to action: Stop racist attacks from harmful anti-trafficking organizations against Asian massage parlours and sex workers*. https://www.butterflysw.org/stop-racist-attacks

Butterfly. (2021c). *Declaration of Support: Justice for migrant sex workers.* https://www.butterflysw.org/8callsforjustice

Butterfly. (2022a, February 21). *A Submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act.* https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11707078/br-external/ButterflyAsianAndMigrantSexWorkersSupportNetwork-e.pdf

Butterfly. (2022b). *Open letter to town of Newmarket: End racism against massage business and workers.* https://www.butterflysw.org/newmarket-end-racism

Butterfly & HIV Legal Network. (2021, April 8). *Joint submission on Bill 25, Combating Human Trafficking Act.* https://www.hivlegalnetwork.ca/site/joint-submission-on-bill-251-combating-human-trafficking-act-2021/?lang=en

Canada (Attorney General) v. Bedford, 2013 SCC 72, [2013] 3 S.C.R. 110

Canadian Charter of Rights and Freedoms, Part 1 of the Constitution Act, 1982, being Schedule B to the Canada Act 1982 (UK), c 11.

Canadian Alliance for Sex Work Law Reform (CASWLR). (2017). Safety, dignity, equality: *Recommendations for sex work law reform in Canada.* http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf

CASWLR. (2018). *Brief to Standing Committee on Justice and Human Rights on Trafficking.* https://sexworklawreform.com/brief-to-the-standing-committee-on-justice-and-human-rights-on-human-trafficking-submitted-june-15–2018-by-the-canadian-alliance-for-sex-work-law-reform/

CASWLR. (2019*). Moving backward in the fight against human trafficking in Canada.* http://sexworklawreform.com/wp-content/uploads/2019/02/CASWLR-Human-Trafficking-Response.pdf

CASWLR. (2021, March 30). *Sex worker human rights groups launch constitutional challenge*. http://sexworklawreform.com/sex-worker-human-rights-groups-launch-constitutional-challenge/

CASWLR. (2022, February 21). *A submission to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act.* *https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11599985/br-external/CanadianAllianceForSexWorkLawReform-e.pdf*

Canadian HIV/AIDS Legal Network. (2019, March 27). *The perils of "protection": Sex workers' experiences of law enforcement in Ontario*. http://www.aidslaw.ca/site/the-perils-of-protection/?lang=en

Canadian Press. (2015, April 2). RCMP bust Canada-wide human-smuggling, prostitution ring. *CTV*. https://atlantic.ctvnews.ca/rcmp-bust-canada-wide-human-smuggling-prostitution-ring-1.2308923

Carby, H. (1982). White woman listen! Black feminism and the boundaries of sisterhood. In Centre for Contemporary Culture Studies, *The empire strikes back: race and racism in the 70s Britain* (pp. 212–235). Hutchinson & Co. https://doi.org/10.4324/9780203639948

Chu, S. K. H. (2021, May 12). *Official Report of Debates on Combating Human Trafficking Act.* 42nd Parliament, 1st Session. https://www.ola.org/en/legislative-business/committees/justice--policy/parliament-42/transcripts/committee-transcript-2021-may-12#P549_12762

Chuen, L. (2021, June 14). Newmarket wants to legislate body rub parlours out of existence: Proposed amendment will strip Asian massage workers of their livelihoods. *ricochet.* https://ricochet.media/en/3692/newmarket-wants-to-legislate-body-rub-parlours-out-of-existence

Cole, D. (2020). *The skin we're in: A year of black resistance and power*. Doubleday Canada.

Collins, P. H. (1998). Intersections of race, class, gender, and nation: Some implications for Black family studies. *Journal of Comparative Family Studies, 29*(1), 27–36. https:/doi.org /10.3138/jcfs.29.1.27

Crenshaw, K. W. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum, 140*, 139–167. https://chicagounbound.uchicago.edu/uclf/vol1989/iss1/8

Crenshaw, K. W. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review, 43*(6), 1241–1299. https://doi.org/10.2307/1229039

Criminal Code, R.S.C., 1985, c. C–46.

Daley, R. (2017). *Canada's relationship with women migrant sex workers: Producing "vulnerable migrant workers" through "protecting workers from abuse and exploitation."* [Master's thesis,Wilfrid Laurier University]. Comprehensive https://scholars.wlu.ca/cgi/viewcontent.cgi?article=3045&context=etd

Davis, A. Y., Dent, G., Meiners, E. R., & Richie, B. E. (2022). *Abolition. Feminism. Now*. Haymarket Books.

De Shalit, A., Roots, K., & van der Meulen, E. (2021). Knowledge mobilization by provincial politicians: The united front against trafficking in Ontario, Canada. *Journal of Human Trafficking*. https://doi.org/10.1080/23322705.2021.1934370

De Shalit, A., van der Meulen, E., & Guta, A. (2021). Social service responses to human trafficking: the making of a public health problem. *Culture, Health & Sexuality*, *23*(12),1717-1732. https://doi.org/10.1080/13691058.2020.1802670

Doezema, J. (2001). Ouch! Western feminists "wounded attachment" to the "third world prostitute." *Feminist Review*, *67*(1), 16–38. https://doi.org/10.1080/01417780150514484

Durisin, E. M., van der Meulen, E., & Bruckert, C. (2018). Contextualizing sex work: Challenging discourses and confronting narratives. In *Red light labour: Sex work regulation, agency, and resistance* (pp. 3–24). UBC Press. https://www.ubcpress.ca/asset/27559/1/9780774838252_excerpt.pdf

Durisin, E. M., & van der Meulen, E. (2021). Sexualized nationalism and federal human trafficking consultations: Shifting discourses on sex trafficking in Canada. *Journal of Human Trafficking*, *7*(4) 454–475. https://doi.org/10.1080/23322705.2020.1743604

Fudge, J., Lam, E., Chu, S. K. H., & Wong, V. (2021). *Caught in carceral web: Anti-trafficking laws and policies and their impacts on migrant sex workers.* Butterfly. https://www.butterflysw.org/publication

Global Network of Sex Workers Project (NSWP). (2018). *Briefing paper: Migrant Sex Workers.* https://www.nswp.org/sites/nswp.org/files/briefing_paper_migrant_sex_workers_nswp_-_2017.pdf

Goldenberg, S. M., Krusi, A., Zhang, E., Chettiar, J., & Shannon, K. (2017). Structural determinants of health among im/migrants in the indoor sex industry: Experiences of workers and managers/owners in Metropolitan Vancouver. *Plos ONE 12*(1), e0170642. https://doi.org/10.1371/journal.pone.0170642

Graham, L. (2017). Governing sex work through crime: Creating the context for violence and exploitation. *The Journal of Criminal Law*, *81*(3), 201–216. https://doi.org/10.1177/0022018317702802

Hamilton Police Services. (2019). *Project Orchid takes aim at illegal massage parlours.* [Press release]. https://hamiltonpolice.on.ca/news/project-orchid-takes-aim-at-illegal-massage-parlours/

Hempstead, D. (2015, May 11). 11 Massage workers face deportation. *Ottawa Sun.* https://ottawasun.com/2015/05/11/11-massage-workers-deported/wcm/ceca5400–2c0f-431c-97a5–1326efc8e0a7

HIV Legal Network & Butterfly. (2021, June 2). *Passing of Bill 251 in Ontario will not end human trafficking, will trample on human rights.* https://www.hivlegalnetwork.ca/site/statement-passing-of-bill-251-in-ontario-will-not-end-human-trafficking-will-trample-on-human-rights/?lang=en

Ibrahim, D. (2018). Trafficking in persons in Canada, 2016. *Canadian Centre for Justice Statistics*. https://www.kristenfrenchcacn.org/wp-content/uploads/2019/08/Trafficking-in-Persons-in-Canada-Report-June-27–2018.pdf

Ibrahim, D. 2021. Trafficking in persons in Canada, 2019. *Juristat bulletin—Quick fact*. Statistics Canada catalogue no. 85-005-X. https://www150.statcan.gc.ca/n1/pub/85-005-x/2021001/article/00001-eng.htm

Immigration Act of 1910

Immigration Act of 1976

Immigration & Refugee Protection Act. Statutes of Canada, SC 2001, c. 27.

Immigration & Refugee Protection Regulations. SOR/2002–227, s. 196.1(a).

Ivy, Mei, Lisa, Jessica, & Starus. (2021, June 20). Asian massage parlour workers speak out against discriminatory bylaw. *Spring*. https://springmag.ca/asian-massage-parlour-workers-speak-out-against-discriminatory-bylaw

Jeffrey, L. A. (2005). Canada and migrant sex-work: Challenging the "foreign" in foreign policy. *Canadian Foreign Policy Journal*, *12*(1), 33–48. https://doi.org/10.1080/11926422.2005.9673387

Jones, E. (2022). *Abolitionist Intimacies*. Fernwood Publishing.

Justice for Children and Youth (2021, May 11). *Submissions on Bill 251 - Combating Human Trafficking Act, 2021.* https://jfcy.org/wp-content/uploads/2021/05/JFCY-submissions-Bill-251.pdf

Kaye, J. (2017). *Responding to human trafficking: Dispossession, colonial violence, and resistance among Indigenous and racialized women*. University of Toronto Press. https://doi.org/10.3138/9781487513863

Kelley, N. & Trebilcock, M. J. (1998). *The making of the mosaic: A history of Canadian immigration policy*. University of Toronto Press.

Kempadoo, K. (1998). Introduction: Globalizing sex workers' rights. In Kamala Kempadoo & Jo Doezema (Eds.), *Global sex workers: Rights, resistance, and redefinition* (pp. 1–28). Routledge. https://doi.org/10.4324/9781315865768

Kempadoo, K. (2001). Women of color and the global sex trade: Transnational feminist perspectives. *Meridians: Feminism, Race, Transnationalism, 1*(2), 28–51. https://doi.org/10.1215/15366936-1.2.28

Kempadoo, K. (2005). Prostitution and sex work studies. In Philomena Essed., David Theo Goldberg, & Audrey Kobayashi (Eds.), *A companion to gender studies* (pp. 255–265). Wiley-Blackwell.

Kempadoo, K. (2012). Abolitionism, criminal justice, and transnational feminism: Twenty-first-century perspectives on human trafficking. In Kamala Kempadoo, Jyoti Sanghera, & Bandana Pattanaik (Eds.), *Trafficking and prostitution reconsidered: New perspectives on migration, sex work, and human rights* (pp. vii–xiii). Routledge.

Kempadoo, K. (2015). The modern-day white (wo)man's burden: Trends in anti-trafficking and anti-slavery campaigns. *Journal of Human Trafficking*, *1*(1), 8-20.

Kempadoo, K., & Shih, E (2022) Introduction. Rethinking the field from anti-racist and decolonial perspective. In Kempadoo, K., & Shih, E. (Eds.). (2022). *White supremacy, racism and the coloniality of Anti-Trafficking*. (pp.1-14). Taylor & Francis.

Krüsi, A., Pacey, K., Bird, L., Taylor, C., Chettiar, J., Allan, S., & Shannon, K. (2014). Criminalisation of clients: Reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—a qualitative study. *BMJ Open*, *4*(6): e005191. http://dx.doi.org/10.1136/bmjopen-2014–005191.

Krüsi, A., Kerr, T., Taylor, C., Rhodes, T., & Shannon, K. (2016). "They won't change it back in their heads that we're trash": The intersection of sex work–related stigma and evolving policing strategies. *Sociology of Health & Illness*, *38*(7), 1137–1150. https://doi.org/10.1111/1467-9566.12436

Lam, E. (2016). Inspection, policing, and racism: How municipal by-laws endanger the lives of Chinese sex workers in Toronto. *Canadian Review of Social Policy, 75*, 87–112.

Lam, E. (2018a). How anti-trafficking investigation and policies harm migrant sex workers. *Butterfly*. https://576a91ec-4a76459b-8d05-4ebbf42a0a7e-lt1v.filesusr.com/ugd/5bd754_bbd71c0235c740e3a7d444956d95236b.pdf

Lam, E. (2018b). Survey on Toronto holistic practitioners' experiences with bylaw enforcement and police. *Butterfly*. https://576a91ec-4a76–459b-8d05–4ebbf42a0a7e.filesusr.com /ugd/5bd754_6d780ceba3cb4f6c85de4d3e9e0b7475.pdf

Lam, E. (2019a). How to develop a social justice framework to support migrant sex workers and prevent the harm caused by anti-trafficking initiatives. *International Association of Schools of Social Work: Social Dialogue. 20.* 30–34.

Lam, E. (2019b). Micromanaging the massage parlour: How municipal bylaws organize and shape the lives of Asian sex workers. In Serena Petrella. (Ed.), *Erotic subjects and outlaws: Sketching the borders of sexual citizenship* (pp. 102–130). Brill Rodopi.

Lam, E. (2020a). How are Asian and migrant workers in spas, holistic centres, massage parlours, and the sex industry affected by the COVID-19 pandemic? *Butterfly.* https://576a91ec-4a76–459b-8d05–4ebbf42a0a7e.filesusr.com/ugd/5bd754_bacd2f6ecc7b49ebb3614a8aef3c0f5f.pdf

Lam, E. (2020b). Migrant sex workers left behind during COVID-19 pandemic. *Canadian Journal of Public Health*, *111*(4), 482–483. 10.17269/s41997-020-00377-4

Lam, E., Gallant, C., & Wong, V. (2020, May 29). A terrorism charge isn't the solution to violence against women. *Chatelaine.* https://www.chatelaine.com/opinion/incel-terrorism-sex-work/

Lam, E. & Lepp, A. (2019). Butterfly: Resisting the harms of anti-trafficking policies and fostering peer-based organising in Canada. *Anti-Trafficking Review*, *12*, 91–107. https://doi.org/10.14197/atr.201219126

Lam, E., Shih, E., Chin, K., & Zen, K. (2021). The double-edged sword of health and safety: COVID-19 and the policing and exclusion of migrant Asian massage workers in North America. *Social Sciences*, *10*(5), 157. https://doi.org/10.3390/socsci10050157

Lam, E. & Wong, V. (2020, March 11). Punitive by-law enforcement increase risk of violence for massage workers. r*icochet.* https://ricochet.media/en/2976/punitive-bylaw-enforcement-increases-risk-of-violence-for-massage-workers

Lepp, A. (2018). Canada. In Global Alliance Against Traffic in Women (Ed.), *Sex workers organizing for change: Self-representation, community mobilization, and working condition* (pp. 151–195). https://www.gaatw.org/publications/SWorganising/SWorganising-complete-web.pdf

Leslie, K. (2015, December 15). Ontario named 'major hub' for human trafficking. *The Globe and Mail.* https://www.theglobeandmail.com/news/national/ontario-named-major-hub-for-human-trafficking-report/article27740094/

Liew, J. (2020). The invisible women: Migrant and immigrant sex workers and law reform in Canada. *Studies in Social Justice, 14*(1), 90–116. https://doi.org/10.26522/ssj.v2020i14.2144

Liew, J. (2022, February 25). *Brief submitted to the House of Commons Standing Committee on Justice and Human Rights: Review of the Protection of Communities and Exploited Persons Act.* *https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11603695/br-external/LiewJamie-e.pdf*

Luibhéid, E. (2002). *Entry denied: Controlling sexuality at the border*. University of Minnesota Press.

Luibhéid, E. (2008). Sexuality, migration, and the shifting line between legal and illegal status. *GLQ: A Journal of Lesbian and Gay Studies*, *14*(2–3), 289–315.

Malla, A., Lam, E., van der Meulen, E., & Peng, J. (2019). Beyond tales of trafficking: A needs assessment of Asian migrant sex workers in Toronto. *Butterfly. https://576a91ec-4a764*

59b-8d054ebbf42a0a7e-n74uja.filesusr.com/ugd/5bd754_a35d8e085c21475fa97e1ff759d26648.pdf

Maynard, R. (2015). Fighting wrongs with wrongs? How Canadian anti-trafficking crusades have failed sex workers, migrants, and Indigenous communities. *Atlantis: Critical Studies in Gender, Culture & Social Justice*, *37*(2), 40–56.

Maynard, R. (2017). *Policing Black lives: State violence in Canada from slavery to the present*. Fernwood Publishing.

McBride, B., Shannon, K., Duff, P., Mo, M., Braschel, M., & Goldenberg, S. M. (2019). Harms of workplace inspections for im/migrant sex workers in in-call establishments: Enhanced barriers to health access in a Canadian setting. *Journal of Immigrant and Minority Health*, *21*(6), 1290–1299. https://doi.org/10.1007/s10903-019-00859-9

McBride, B., Shannon, K., Murphy, A., Wu, S., Erickson, M., Goldenberg, S. M., & Krüsi, A. (2020). Harms of third party criminalisation under end-demand legislation: Undermining sex workers' safety and rights. *Culture, Health & Sexuality*, *23*(9), 1–17. https://doi.org/10.1080/13691058.2020.1767305

McBride, B., Goldenberg, S. M., Murphy, A., Wu, S., Mo, M., Shannon, K., & Krüsi, A. (2022). Protection or police harassment? Impacts of punitive policing, discrimination, and racial profiling under end-demand laws among im/migrant sex workers in Metro Vancouver. *SSM-Qualitative Research in Health*, *2 [*In progress]. https://doi.org/10.1016/j.ssmqr.2022.100045

Millar, H. & O'Doherty, T. (2020). Racialized, gendered, and sensationalized: An examination of Canadian anti-trafficking laws, their enforcement, and their (re)presentation. *Canadian Journal of Law & Society/La Revue Canadienne Droit et Société*, *35*(1), 23–44. https://doi.org/10.1017/cls.2020.2

Montgomery, L. (2021). *Carceral harm reduction: A critical analysis of the municipal licensing of body rub centres in Edmonton, Alberta.* [Doctoral dissertation, Carleton University]. CURVE. https://doi.org/10.22215/etd/2021-14527

Mortfield, G. (2021, June 14). "Who is being targeted?": Advocates condemn proposed massage-parlour bylaw. *TVO.* https://www.tvo.org/article/who-is-being-targeted-advocates-condemn- proposed-massage-parlour-bylaw

O'Doherty, T. (2011). Criminalization and off-street sex work in Canada. *Canadian Journal of Criminology and Criminal Justice*, *53*(2), 217–245. https://doi.org/10.3138/cjccj.53.2.217

Office of Correctional Investigator. (2021, December 17). *Proportion of Indigenous women in Federal custody nears 50%: Correctional investigator issues statement.* https://www.oci-bec.gc.ca/cnt/comm/press/press20211217-eng.aspx

PIVOT & CASWLR. (2016). *CEDAW, sex work, & addressing human rights for women in the sex industry.* https://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/1947/attachments/original/1477326470/CASWLR_Pivot_CEDAW_fact_sheet.pdf?1477326470

Protection of Communities and Exploited Persons Act, S.C. 2014, c. 25. 2014.

Public Safety Canada. (2010). *National strategy to combat trafficking. Government of Canada.* https://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/2019-ntnl-strtgy-hmnn-trffc/2019-ntnl-strtgy-hmnn-trffc-en.pdf

Public Safety Canada. (2012). *National action plan to compact trafficking 2012–2013: Annual report on progress. Government of Canada.* http://www.publicsafety.gc.ca/cnt/rsrcs/pblctns/ntnl-ctn-pln-cmbt/ntnl-ctn-pln-cmbt-eng.pdf

R v. Anwar, 2020 ONCJ 103

R v. N.S., 2021 ONSC 1628

Royal Canadian Mounted Police. (2010). *Human trafficking in Canada: A threat assessment*. http://publications.gc.ca/collections/collection_2011/grc-rcmp/PS64–78–2010-eng.pdf

Royal Canadian Mounted Police. (2018, October 24). *Operation Northern Spotlight VII: Canadian police services continue to work together to stop human trafficking*. [Press release]. https://www.rcmp-grc.gc.ca/en/news/2018/operation-northern-spotlight-vii-canadian-police-services-continue-work-together-stop

Sanghera, J. (2012). Unpacking the trafficking discourse. In Kamala Kempadoo, Jyoti Sanghera, & Bandana Pattanaik (Eds.), *Trafficking and prostitution reconsidered: New perspectives on migration, sex work, and human rights* (pp. 3–24). Routledge.

Santini, T. & Lam, E. (2017). Upholding and promoting human rights, justice, and access for migrant sex workers. *Butterfly*. https://www.butterflysw.org/legal-information-for-services-prov

Sarai, R. (2022, June 22). Preventing harm in the Canadian sex industry: A review of the *Protection Of Communities And Exploited Persons Act* report of the Standing Committee on Justice and Human Rights. https://www.ourcommons.ca/Content/Committee/441/JUST/Reports/RP11891316/justrp04/justrp04-e.pdf

Sharma, N. (2001). On being *not* Canadian: The social organization of "migrant workers" in Canada. *Canadian Review of Sociology*, *38*(4), 415–439. https://doi.org/10.1111/j.1755-618X.2001.tb00980.x

Sharma, N. (2005). Anti-trafficking rhetoric and the making of a global apartheid. *NWSA Journal*, *17*(3), 88–111. https://doi.org/10.1353/nwsa.2005.0069

Shaver, F. M., Lewis, J., & Maticka-Tyndale, E. (2011). Rising to the challenge: Addressing the concerns of people working in the sex industry. *Canadian Review of Sociology*, *48*(1), 47–65. https://doi.org/10.1111/j.1755-618x.2011.01249.x

Shaver, F., Bryans, J., & Bhola, I. (2018). Perceptions of sex work: Exploring the narratives of police and regulatory officials. In Elya M. Durisin, Emily van der Meulen, & Chris Bruckert (Eds.), *Red light labour: Sex work, regulation, agency, and resistance* (pp. 121–133). UBC Press.

Shih, E. (2021). The trafficking deportation pipeline: Asian body work and the auxiliary policing of racialized poverty. *Feminist Formations*, *33*(1), 56-73.https://doi.org/10.1353/ff.2021.0000

Standing Committee on Justice and Human Rights. (2018). *Moving forward in the fight against human trafficking in Canada.* 42nd Parliament, 1st Session. http://www.ourcommons.ca/Content/Committee/421/JUST/Reports/RP10243099/justrp24/justrp24-e.pdf

Sterling, A. & van der Meulen, E. (2018). "We are not criminals": Sex work clients in Canada and the constitution of risk knowledge. *Canadian Journal of Law and Society, 33*(3), 291–308. https://doi.org/10.1017/cls.2018.13

The Chinese Immigration Act of 188

Thobani, S. (2007). *Exalted subjects: Studies in the making of race and nation in Canada*. University of Toronto Press.

Toronto Network Against Trafficking in Women. (2000). *Trafficking in women including Thai migrant sex workers in Canada.* http://www.mhso.ca/mhso/Trafficking_women.pdf

Uy, R. (2011). Blinded by red lights: Why trafficking discourse should shift away from sex and the "perfect victim" paradigm. *Berkeley Journal of Gender, Law, & Justice, 26*(1), 204–219.

Vagrancy Act 1824

van der Meulen, E. & Durisin. E. M. (2008). Why decriminalize? How Canada's municipal and federal regulations increase sex workers' vulnerability. *Canadian Journal of Women and the Law, 20*(2), 289–311.

van der Meulen E. & Durisin, E. M. (2018). Sex work policy: Tracing historical and contemporary developments. In Elya M. Durisin, Emily van der Meulen, & Chris Bruckert (Eds.), *Red light labour: Sex work, regulation, agency, and resistance* (pp. 203–212). UBC Press.

van der Meulen, E., & Valverde, M. (2013). Beyond the criminal code: Municipal licensing and zoning bylaws. In Emily van der Meulen, Elya M. Durisin, & Victoria Love (Eds.), *Selling sex: Experience, advocacy, and research on sex work in Canada* (pp. 314–322). UBC Press.

Vanwesenbeeck, I. (2019). The making of "the trafficking problem." *Archives of Sexual Behavior*, *48*(7), 1961–1967. https://doi.org/10.1007/s10508-018-1367-4

Walia, H. (2013). *Undoing border imperialism*. AK Press.

Walia, H. (2021). *Border and rule: Global migration, capitalism, and the rise of racist nationalism*. Haymarket Books.

Weitzer, R. (2007). The social construction of sex trafficking: Ideology and institutionalization of a moral crusade. *Politics & Society*, *35*(3), 447–475. https://doi.org/10.1177/0032329207304319

Wong, V. (2022, September 14). An Ontario crackdown on massage parlours continues Canada's legacy of anti-racism. *The conversation.* https://theconversation.com/an-ontario-crackdown-on-massage-parlours-continues-canadas-legacy-of-anti-asian-racism-189208