



Living in Community Submission to the UN Special Rapporteur on Violence Against Women and Girls

January 31, 2024

Background

Living in Community (LIC) is a provincial non-profit organization and charity based in Vancouver, British Columbia, Canada.

Centering sex workers' rights, we convene diverse stakeholders in order to: understand a range of experiences and perspectives; inform sex work-related policies and practices of governments, service providers, and community organizations; and provide education and training to support these goals. We focus on root causes of issues including colonization, capitalism, criminalization, racism, and discrimination that create systemic vulnerability for sex workers, and we seek to build understanding and common ground with other community members.

In our education work, we have delivered an in-depth training to thousands of learners across Canada about sex work stigma and about effective ways for frontline organizations to uphold sex workers' rights and autonomy while providing services.

From this perspective of listening to, seeking understanding with, and convening diverse perspectives for 20 years, we are writing to provide further information and recommend a re-frame to your call for submissions about "the nexus between the global phenomenon of prostitution (sic) and violence against women and girls."¹

Sex Work is Not Violence

Living in Community is a member of our provincial government's Advisory Committee on implementing a Gender Based Violence Action Plan. In this role, and based on what we hear from the 25+ organizations we work with across the province and beyond that directly work with those in the sex industry (including several anti-violence and women's rights organizations), we share a perspective that adds nuance to the understanding of sex work and violence.

¹ Office of the high Commissioner for Human Rights, 2024: <https://www.ohchr.org/en/calls-for-input/2024/call-input-report-special-rapporteur-violence-against-women-and-girls-human#:~:text=Please%20send%20your%20contributions%20in,later%20than%2031%20January%202024>

There is an important and necessary distinction between someone's job making them more vulnerable to certain types of harm and to saying an entire industry is inherently harmful. For example, workers who do commercial window washing on skyscrapers may be more vulnerable to physical harm since they are hanging high up on tall buildings. However, we would not say that window washing is inherently harmful, and we do not seek to abolish the window washing industry; we know there are important safety measures, workers' protections, and regulations which can be put in place to maximize the safety of the workers who choose to be in this line of work.

Similarly, sex work is not inherently violent. Due to criminalization, stigma, and a lack of accessible services, sex workers may be more vulnerable to certain types of violence than other workers. However, as with workers in other industries, the good news is that there is much that we can do through labour rights, employment standards, and addressing the root causes of stigma to decrease this vulnerability to violence.

Sex Work and The Laws

It is widely understood and agreed upon – including by human rights and legal organizations including [Amnesty International](#), [Human Rights Watch](#), the [Canadian Civil Liberties Association](#), [Women's Legal Education & Action Fund \(LEAF\) Canada](#), and more – that sex work should be decriminalized so that sex workers can access the same rights and benefits as workers in other industries. If sex work was decriminalized, occupational health and safety and municipal bylaws could then be applied to safely regulate how sex work is conducted. Most countries already have laws and regulations to address offences including workplace health and safety, human trafficking, and crimes such as theft, assault, and sexual assault.

In Canada, the sex work industry is criminalized under the Protection of Communities and Exploited Persons Act (PCEPA). Since the implementation of PCEPA, sex workers have experienced many negative outcomes. Criminalizing communication has made it much more difficult for sex workers in both indoor and outdoor settings to engage in critical screening and negotiating practices with potential clients.² Restrictions on where sex work can take place on the street has led to sex workers seeking out more clandestine and hidden areas of their cities or towns to avoid police detection. In Vancouver, this type of displacement of sex workers led to a situation where 67 women were disappeared and murdered in the late 1990s and early 2000s.

In addition, police enforcement has led to more distrustful relationships between police and sex workers which means that much of the violence that happens to sex workers is not reported by them to police.³ Material benefit laws have reduced the number of safer, indoor locations for sex workers to work and have impeded their ability to work together

² Krüsi, Andrea, Katrina Pacey, Lorna Bird, Chrissy Taylor, Jill Chettiar, Sarah Allan, Darcie Bennett, Julio S. Montaner, Thomas Kerr, and Kate Shannon. "Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada—a qualitative study." *BMJ open* 4, no. 6 (2014): e005191.

³ Benoit, Cecilia, Michaela Smith, Mikael Jansson, Samantha Magnus, Nadia Ouellet, Chris Atchison, Lauren Casey et al. "Lack of Confidence in Police Creates a "Blue Ceiling" for Sex Workers' Safety." *Canadian Public Policy* 42, no. 4 (2016): 456-468.

for safety. These laws have also made it more difficult for sex workers to work with those who support the safety of their work such as receptionists, bodyguards, drivers, managers, peers, and partners.⁴ Restrictions on advertising limit sex workers' ability to clearly advertise their services, connect with potential clients, and set boundaries.⁵

Moreover, although the stated intent of the current laws is to criminalize the clients of sex workers and not sex workers themselves, sex workers are routinely surveilled and harassed by law enforcement who target clients of sex workers for communicating and purchasing sex.⁶ This type of police enforcement is disproportionately aimed at Black, Indigenous, and People of Colour sex workers. Sex workers can also face eviction if their landlord finds out they do sex work due to the material benefit law and the stigma created by criminalization.

These laws, taken individually and collectively, have had very similar negative effects to the laws that were struck down by the Supreme Court of Canada in *Bedford v. Canada* in 2013. The stated purpose of these laws, according to the preamble, is to abolish sex work to the greatest extent possible. We wholly disagree with this goal and ask how it can be achieved without harming sex workers who are still engaged in work that is technically legal, and that many choose and want to do.

Efforts to abolish sex work through more and more draconian laws have failed around the world and have only created more harm for sex workers. Instead of end-demand laws, decriminalization — coupled with efforts toward ending poverty and homelessness, reducing domestic violence, promoting anti-racism, and implementing evidence-based drug policy — would do more to reduce the number of people who turn to sex work as a last resort to make ends meet and who face higher levels of violence and exploitation.

Sex Work is Not Trafficking

Oftentimes, sex work and human trafficking are seen as the same thing. However, we must listen to what people say about their own experiences and refrain from naming their experiences for them. Not everyone in the sex industry is trafficked; not everyone who is trafficked is in the sex industry.

It is important to distinguish between human trafficking and sex work to avoid negative impacts on sex workers. For example, when law enforcement targets the sex industry in efforts to detect human trafficking, these actions can cause sex workers to take steps to avoid police detection. This may mean working in isolation and can push sex work further

⁴ Centre for Gender and Sexual Health Equity. "Harms of End-Demand Criminalization: Impact of PCEPA Laws on Sex Workers' Safety Health and Human Rights". (2019).

⁵ Benoit, Cecilia, Mikael Jansson, Michaela Smith, and Jackson Flagg. "'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, no. 2 (2017): 52.

⁶ Benoit, Cecilia, Michaela Smith, Mikael Jansson, Samantha Magnus, Nadia Ouellet, Chris Atchison, Lauren Casey et al. "Lack of Confidence in Police Creates a 'Blue Ceiling' for Sex Workers' Safety." *Canadian Public Policy* 42, no. 4 (2016): 456-468.

underground where sex workers are more vulnerable to marginalization, violence, and exploitation, including human trafficking.

When the entire sex industry is understood as sex trafficking, only crimes that meet the trafficking threshold are of interest to police. Crimes such as assault, sexual assault, robbery, and other serious crimes are unaddressed. Predators seize this opportunity and act with impunity. When ill-informed anti-trafficking strategies such as police raids on massage parlours or hotel stings are applied to sex workers, these increase sex workers' distrust of and animosity toward police. This results in underreporting of crimes when sex workers actually experience violence or exploitation.

These anti-trafficking strategies also cause loss of income, displacement, and the detention and deportation of migrant sex workers. Misguided 'rescue' missions are counter-productive and increase sex workers' precarity and vulnerability to violence and exploitation. Conflating sex work with trafficking is causing harm to sex workers.

Moreover, when concerns about trafficking are only applied to the sex industry, a disproportionate amount of trafficking resources is diverted from other types of labour trafficking in other industries, which are more pervasive than trafficking for the purpose of sexual exploitation.

Indigenous Women and Trafficking

Indigenous women who sell or trade sex are generally assumed to be trafficked, but many work in the sex trade to support themselves. Labelling Indigenous women who sell or trade sex as trafficking victims is disempowering as it absolves the state of its historical role, through colonization and systemic racism, in producing the challenging context that many Indigenous women find themselves in. This includes current conditions of poverty, insufficient income and disability assistance rates, displacement, homelessness, inequality, and barriers to accessing services.

Public nuisance bylaws, sex work laws, and drug laws all mean that Indigenous women who are selling or trading sex in public spaces bear the brunt of police surveillance and harassment, and this includes street sweeps aimed at finding victims of trafficking. Instead, efforts should raise Indigenous women up by addressing poverty and the legacies of colonization that are push factors for entry into the sex trade.

In the Final Report of the Missing and Murdered Indigenous Women and Girls (MMIWG) Inquiry in 2019, a key recommendation was for "all governments to support programs and services for Indigenous women, girls, and 2SLGBTQQIA people in the sex industry to promote their safety and security. *These programs must be designed and delivered in partnership with people who have lived experience in the sex industry.* We call for stable and long term funding for these programs and services"⁷ (emphasis added).

⁷ Reclaiming Power and Place: Final Report of the Missing and Murdered Indigenous Women and Girls (MMIWG) Inquiry. (2019). <https://www.mmiwg-ffada.ca/final-report/>

Im/Migrant Women and Sex Work

Immigrant and migrant women doing sex work are also assumed to be trafficked. This is often based on racist understandings, particularly of Asian women, who are believed to be naïve and duped into doing sex work.

Migrant sex workers experience unique barriers to rights, protections, and access to community services due to multi-layered criminalization, which includes criminalization based on their immigration status, as they are not permitted to work in the sex industry. Since 2012, Canada's Immigration and Refugee Protection Regulations (IRPR) have prohibited temporary residents from working "with an employer who, on a regular basis, offers striptease, erotic dance, escort services or erotic massages."⁸ Anyone who has a work permit, study permit or visitor's visa and carries temporary resident immigration status is captured by these provisions.

Even if sex work was decriminalized in Canada, migrant sex workers would still be criminalized under the Immigration and Refugee Protection Regulations. Ill-conceived anti-trafficking 'raid and rescue' operations by the police on indoor locations where im/migrant women are doing sex work are terrifying for the workers and cause them to fear police. In addition, sometimes the Canada Border Services Agency accompany police, which can lead to detention and deportation for migrant workers. Predators come to know that im/migrant sex workers will not report to police and will deliberately target them for robberies and other violence.

Recommendations

Therefore, we strongly urge you to consider the following:

- Use the term 'sex work,' which has been widely understood and respected as the proper term by workers themselves for quite some time.
- For more information about terminology, myths and realities about trafficking, and how stigma can inadvertently cause harm by those who seek to help, learn more about our training: <https://livingincommunity.ca/our-courses/>
- Advocate for the decriminalization of sex work, accompanied by evidence-based reforms to countries' poverty reduction, homelessness, domestic violence, anti-racism, and drug policy approaches.
- Focus energy on investigating other pressing forms of labour trafficking, such as in agriculture, textiles, manufacturing, and domestic labour.

⁸ Immigration and Refugee Protection Regulations (SOR/2002-227), Government of Canada. <https://laws-lois.justice.gc.ca/eng/regulations/sor-2002-227/section-196.1.html>