

Upholding and promoting human rights, justice and access for migrant sex workers:

Part 4 - Q & A for Service Providers

This document provides information and insight for legal, social, health, community, and other service providers to help develop their capacity to provide adequate, accessible and appropriate services to migrant sex workers.

The legal and non-legal information within this document will assist service providers to:

- deepen their understanding of the complexity and diversity of migrant sex workers' realities;
- be informed of migrant sex workers' numerous and intersecting conflicts with the law and law enforcement;
- more fully understand, analyze and support migrant sex workers in various situations;
- develop their capacity to provide accessible and applied (legal or non-legal) information to migrant sex workers, or to refer them to these resources; and
- be more equipped to support, protect and defend migrant sex workers' labour and human rights.

All of these documents were written and produced with the direct and meaningful participation of migrant sex workers, and reflect the autonomy, knowledge, skill, brilliance and expertise that migrant sex worker communities embody. We hope this document helps you to provide relevant and adequate support to migrant sex workers, and also motivates you to listen to and learn from migrant sex workers themselves. This document is part of a series that addresses migrant sex workers' rights, and the laws that prevent the protection and the realization of their rights:

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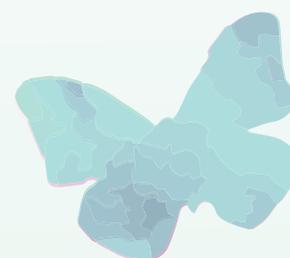
Part 1 - Guide for service providers

Part 2 - Laws affecting migrant sex workers

*Criminal Law and Migrant Sex Workers' Rights
Immigration Law and Migrant Sex Workers' Rights
Municipal Law and Migrant Sex Workers' Rights
Migrant Sex Workers' Labour and Employment Rights*

Part 3 – Legal information for migrant sex workers

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To access the full series of documents : <https://www.butterflysw.org/legal-information-for-services-prov>

**Not all people who sell or trade sexual or erotic services identify as sex workers. We use the terms sex work and sex workers to signify the consensual exchange of sexual or erotic services for money, goods or services, and to emphasize the human and labour rights of migrant sex workers.*

This document provides general legal information, not legal advice. Talk to a lawyer if you want legal advice specific to your situation.



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www.ccnctoronto.ca
Butterfly (Asian and Migrant Sex Workers Support Network)
www.butterflysw.org
The Chinese and Southeast Asian Legal Clinic (CSALC)
www.csalc.ca
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Part 4 - Q & A for Service Providers

1. Who are migrant sex workers?

The term "migrant sex worker" refers to a person who has traveled from one place to another (through formal or informal avenues) and who exchanges sexual or erotic services for money, food, accommodation, status or other compensation. Migrant sex workers' realities are unique and diverse. The term "migrant sex worker" captures a variety of experiences and identities (including immigration status, race, gender and sexuality).

The immigration status of migrant sex workers can vary: **citizenship, permanent residence, temporary residence** (with or without a work permit), **or without legal status under Canada's immigration laws**. Immigration status is often fluid and may change quickly as a result of a decision or policy made by a department of immigration.

2. Why do migrant workers do sex work?



Like other forms of work, people make decisions about their career, their work and their life according to their own circumstances, such as economic and social conditions, personal preference and ability, and available opportunities.

Some migrant sex workers make the decision to be involved in sex work to provide for their basic needs, for economic security, and/or to move away from other kinds of oppression (e.g., labour exploitation or domestic violence). Some make the decision to be involved in sex work for their own economic advancement, self-actualization, or to pursue their dreams. Their decisions may also be affected by their own personal circumstances, such as their race, class, gender and immigration status.

For migrants who cannot access decent wages or labour protections, they may seek work in underground economies such as sex work, construction or restaurants. For some, sex work may be one of the only options available to them. For others, sex work may offer better wages, more flexibility and better general working conditions than those provided by other types of available work.

3. Where do migrant sex workers work?

Sex work is very diverse. It can involve different forms of sexual or erotic activities, such as erotic massage, body rub, escorting, stripping, webcam and BDSM. Migrant sex workers may work in various locations, such as massage parlours, strip clubs, escort agencies, hotels, apartments and/or in public spaces.

Existing laws and regulations, including the *Criminal Code* and municipal licensing, affect the types of sexual services that workers may offer. These regulations often negatively affect migrant sex workers' capacity to control their environment, implement health and safety practices, and ensure their labour and human rights are protected at work.

Because sex work is criminalized, it is almost always illegal to openly sell sexual or erotic services in a commercial establishment. For this reason, establishments that may provide sexual or erotic services must conceal these services within other types of businesses. Migrant sex workers who do not have immigration status may be forced to work in isolation to avoid contact with, and investigations by, law enforcement.

4. Why use the term “sex work” instead of “prostitution”?



While some may think that the terms "sex work" and "prostitution" are interchangeable, it is important to recognize that these terms carry different meanings. Some sex workers may prefer to use the term "sex work" as it signifies liberation from the stigma and historical background of the term "prostitution." "Prostitution" has historically been the term used for sex work-related offences in Canada's *Criminal Code*. As a result, the term often carries harmful moral narratives in both social and political spheres. It is easy to perpetuate stigma and ignorance if the term "prostitution" is used without understanding the moral assumptions and the harmful historical and current impacts that this term has on sex workers' lives and work, as well as the protection of their rights.

We use the term "sex work" to emphasize the human and labour rights of migrant sex workers. The term emphasizes that sex work is a form of labour: people in the sex industry are working – as they do in other labour sectors – and deserve the same legal protections and respect as other workers. For many reasons, including stigma and criminalization, not all people who sell or trade sexual or erotic services identify as sex workers. Rather, they may identify as a stripper, masseuse, massage practitioner, worker or prefer not to use any identification. It is important to be aware of the terms you use, and to respect how sex workers refer to their own work and realities.

5. How can I identify migrant sex workers, because most of them do not identify themselves?

Migrant sex workers face multiple levels of discrimination, marginalization and fear of law enforcement. They are in extremely precarious positions as a result of their immigration status, the social and political stigma associated with their work, and the criminal offences and repressive immigration regulations related to sex work. **Migrant sex workers constantly face the real threat of being arrested, detained and/or deported. For all of these reasons, migrant sex workers may not disclose any information about their work or immigration status.** This includes disclosure to service providers.

Service providers must recognize these difficulties and risks associated with disclosing information about sex work or immigration status. If your organization is not able to provide an anonymous and confidential service, and if you cannot guarantee that you will not disclose any information without the explicit and informed consent of the person affected, ensure that you clearly explain these limits of the service you are providing. Explain what personal information is needed, for what purpose, who can access their file, and in what cases you will/may share information, before a migrant sex worker discloses any information. Failure to do so may result in involuntary involvement with law enforcement and legal systems, including unexpected criminal and immigration investigations, detention, arrest, deportation and other harmful consequences.

It is always an individual's choice whether to disclose their occupation or immigration status. Remember to focus on why the person came to your organization. Service providers must first establish trust with migrant sex workers. **Whenever possible, try to provide (legal or non-legal) information, support and services without requiring individuals to disclose information about their immigration status or involvement with sex work.**

Directly asking if a person is a sex worker is almost always an inappropriate and invasive question. It may cause them to feel obligated to answer in a specific way, or to decline access to your services in the future if they feel afraid or uncomfortable. Rather, **ask open-ended questions, and remain non-judgmental, informed and available.**



6. What are the unique problems and challenges faced by migrant sex workers?



Migrant sex workers may experience multiple and intersecting struggles related to language, legal systems, finances, health, safety, racism/racial profiling, sexism, employment conditions and family, among other struggles. These various forms of marginalization are connected.

Canada has many federal, provincial and municipal laws that make it difficult for workers in the sex industry to work safely and openly without fear, stigma, surveillance, interrogation, detention, arrest or deportation. **The criminalization of third parties and clients, in addition to the immigration prohibitions on migrant sex work, contribute to the violence and other human rights violations that sex workers face by preventing them from taking critical steps (e.g., working together) to protect their human rights and ensure their personal safety.** These laws also hinder migrant sex workers' efforts to provide support to each other and to access community services and legal supports, especially in disclosing their identity and personal situation.

Migrant sex workers are especially vulnerable to being targeted by law enforcement if they are racialized, Black, trans, non-binary and/or undocumented. This is compounded by the fact that migrant sex workers are often labeled as 'victims' by law enforcement and the general public. **This "victim" label denies migrant sex workers' agency and autonomy, increases "moral panic" against them, and results in raids of migrant sex workers' workplaces by law enforcement** – raids which may lead to the detention, interrogation, surveillance, arrest and deportation of the workers, in addition to possible harassment and other rights violations.

As a service provider, understand migrant sex workers' realities and needs as *they* describe them to you. Although you may introduce information or resources that you think are relevant and useful for them, let them guide the analysis of their situation and needs. Respecting migrant sex workers' decisions includes respecting their right to work, as well as other decisions about their lives (e.g., their relationships, their personal goals and how they use their money).

Be sure that you are helping them achieve *their* goals, not what you think you would want if you were in their situation.



7. Are migrant women who sell sex “trafficked”? Or under the control of “pimps” and/or “organized crime”?

As service providers for migrant sex workers, you must recognize that sex work is not human trafficking, and that migrant sex workers are not "trafficked victims." People who do not recognize sex work as a legitimate form of labour mistakenly define sex work as exploitative, and do not distinguish the sale or exchange of consensual sexual services from human trafficking, sexual assault, sexual abuse, sexual exploitation, and violence against women and girls. **It is incorrect and harmful to assume that commercial sex work is inherently violent and exploitative, that all third parties and clients are exploiting sex workers, and that sex work must be prohibited, criminalized and treated as a social problem.**

It is true that some sex workers may have difficulty negotiating the terms of their services with pushy clients, or work in places that do not meet occupational health and safety standards. However, these problems are worsened by Canadian laws that do not recognize or support the experiences of sex workers, and enforce an anti-trafficking agenda that falsely treats all migrant sex workers as victims rather than workers.

Conflating human trafficking with sex work, or focusing solely on human trafficking and imposing this framework onto migrant sex workers, can have extremely harmful effects for migrant sex workers. An approach that assumes that sex work is inherently exploitative limits service providers' understanding of the diversity of migrant sex workers' lives and realities, and the complexities of their needs and concerns. It also obstructs migrant sex workers' access to justice and protections from other kinds of violence. As a result, it may isolate them from supports and services, impede services providers' capacity to provide support, information and services that meet their needs, and does not foster a holistic approach to the protection of migrant sex workers' human rights.



8. When trafficked women are “brain washed” and do not recognize that they are trafficked, what can I do?

Some service providers may be eager to identify "real victims" due to funding requirements or their personal assumptions about migrant sex work. They may also believe that some women are "brain washed" and do not have the capacity to understand their "real" situation. Some service providers may impose a 'victim' label on migrant sex workers because of their own values and moralistic ideas about sex work. "Victimization" is a dangerous process because it denies a person's agency; **it is incorrect and harmful to assume that migrant sex workers are not able to understand their own situations and make decisions about their lives.**

Recognize that your own subjective values and ideologies associated with sex work and human trafficking may prevent you from understanding migrant sex workers' lived experiences, and from providing them with appropriate services and support. If you have an emotional and compassionate response to the *idea* of a "victim" of trafficking, question that response and whether it is actually based on what a person is sharing with you, or on your preconceived notions of migrant sex work.

Remember to focus on why the person came to your organization. Provide a service that responds to the need or request that has been communicated to you, without imposing or involving your own experiences or interpretations.



9. A migrant sex worker told me that she has a problem with her manager. I believe she is being exploited; should I contact/inform the police?

Service providers should not contact the police, other law enforcement agencies, or *any other service provider or institution*, without the explicit and informed consent of the individual concerned. **Doing so may lead to involuntary involvement with law enforcement and legal systems, including unexpected criminal and immigration investigations, detention, arrest, deportation and other harmful consequences for migrant sex workers.**

Question *why* you are assuming that the person is being "exploited" — sexually or otherwise — rather than understanding the situation from the perspective of an individual who has a bad manager, as do many other workers in other types of work. If you have this concern simply because the person works in the sex industry, consider that this is a harmful assumption to make and that it may have a real impact on the protection of the person's rights, and on their ability to access services.

It is important to analyze your client's situation *with them*, to fully understand their problem and their needs. Explore *all relevant options*, services and supports that they may find useful. For example, if they may be experiencing labour exploitation or poor working conditions, this could possibly be addressed through employment and labour protections. If the issue is related to a power dynamic at work, information about labour protections, in addition to your support, may be empowering and useful to negotiate with their manager. If violence is involved, your client *may* want to seek help from the criminal law system, in addition to being referred to relevant community supports.



10. How can I better support migrant sex workers?

Service providers need to understand that migrant sex workers' lived experiences are complex and diverse.

Inform yourself of how the laws and law enforcement impact migrant sex workers, and of the challenges and difficulties they face in accessing supports and services due to language barriers, isolation and the risk of discrimination, stigma, arrest and deportation. Challenge policies and practices that are harmful, including those that conflate sex work with human trafficking, prohibit and criminalize sex work, and promote racial profiling.

Never contact the police, other law enforcement agencies, or *any other service provider or institution*, without the explicit and informed consent of the individual concerned. Informed consent requires that you discuss — in advance — all possible negative consequences with the individual concerned. **Contacting anyone, or disclosing any information without the explicit and informed consent of the person affected, may destroy the possibility of trust and drive migrant sex workers away from the support or service, further isolating them and deterring them from contacting service providers in the future.**

Many people will refuse to meet with a service provider unless they can do so anonymously and confidentially. If organizations are not able to provide anonymous and confidential services, it is important to **clearly explain the limits of the services: explain what personal information is needed, for what purpose, and who exactly can access a person's file before they disclose any information**. Try to provide information, support and services without requiring individuals to disclose information about their immigration status or involvement with sex work, and when possible, without having to identify themselves.

Do everything possible to ensure that they feel safe when accessing the service. Ensure that you provide the service without judgment or stigma. A sex worker might know from your first interaction whether you have discriminatory perspectives or are supportive of their work. It is important for you as a service provider to reflect on your own personal values and moral judgments about sex work, and try to understand where they are rooted.

You can indicate – verbally and through non-verbal cues (such as posters around the office) – that you are supportive of sex work and that you are an ally. Organizations that wish to be allies to sex workers can increase their awareness and understanding by strengthening connections with sex workers and their networks, and by requesting resources and trainings offered by sex worker organizations. This document is one of many that can help you understand why migrant sex workers need support, and how you can provide that support effectively and respectfully.