

Justice for Migrant Sex Workers



Support Migrant Sex Workers' Justice Background Paper

Migrant sex workers are people who have traveled from one place to another (either through formal or informal avenues) and who exchange sexual services for money, food, accommodation, status, or other compensation. Like other forms of work, people make decisions about their career, their choice of work, and their lives according to their own circumstances -- such as economic and social conditions, personal preference and ability, and available opportunities. People decide to do sex work for various reasons, including providing for their basic needs, for economic security, to move away from other kinds of oppression, and/or to pursue their dreams. Migrant people who decide to do sex work are often prevented from obtaining employment in formalized work settings for a variety of reasons familiar to many migrant communities: language differences, citizenship or visa restrictions, systemic racism in hiring practices, availability of a living wage, to name a few. Sex work is valued and recognized labour.

What are the realities for migrant sex workers?

Migrant sex workers are oppressed, regulated, and marginalized by racism, sexism, and stigma towards sex work and sex workers. Criminalization of sex work not only perpetuates stigma and discrimination against sex workers, but it also prevents sex workers from taking critical steps to protect their human rights and ensure their personal safety. Perpetrators target sex workers because they know sex workers are less likely to report crimes against them (e.g., robbery, assault, sexual assault, etc.) as sex workers are often avoiding police and other law enforcement for fears of abuse, detection, surveillance, apprehension, deportation, and/or losing custody of their children.

Laws introduced in 2014 that continue to criminalize the sale, purchase, advertising, and material benefits from sex work isolate people working in the sex industry from mainstream services and society. Criminalization of the sex industry increases isolation and the risk of experiencing violence and exploitative working conditions, as well as the risk of being in conflict with laws that lead to arrest or deportation. Sixty percent of migrant sex workers report that they have experienced different forms of violence, including harassment, assault, sexual assault, and others report of the murder of their colleagues. Rather than offering protection, law enforcement (including police, bylaw enforcement officers, and CBSA) are a major source of violence against sex workers.

Immigration prohibitions specific to sex work also contravene sex workers' human and labour rights. Migrant sex workers without work permits (such as those without status and visitors) are not allowed to work legally in Canada. However, even those who have open work permits -- such as international

students, refugee claimants, or those under sponsorship -- are not allowed employment in the sex industry despite the fact that the regulation claims to prevent risk of abuse and exploitation (s. 185(b) *Immigration and Refugee Protection Regulations*). This law targets migrant sex workers and may result in loss of immigration status and deportation.

Anti-trafficking initiatives often wrongfully conflate migrant sex work with trafficking, and migrant sex workers are policed and surveilled as a result. Due to racism and moral panic, migrant sex workers, particular Asian workers, are assumed to be passive and incapable of making decisions and their agency is negated. Migrant sex working communities are also assumed to be “organized crime rings.” Anti-sex work organizations use anti-trafficking discourse and campaigns as a ruse to hide their moral agendas to eliminate sex work which leads to their support for the criminalization of sex work, policing of sex workers and migrants overall, and the shutting down of sex work related business. Hundreds of massage parlours and strip clubs have been raided and shut down under the guise of anti-trafficking measures. As a result, sex workers and other migrants have lost their sources of income. Anti-trafficking initiatives receive millions of dollars of government funding annually, which increases the vulnerability of sex workers. These initiatives include invasive investigations, over-policing, racial profiling, punitive raids, arrest, detainment, “rescue” and “rehabilitation”, and deportation. Anti-sex work laws and policies promote racism and anti-immigration sentiments and impose a lens of either victimization or criminality on migrant sex workers whereby migrant sex workers are either viewed as victims who are experiencing sexual exploitation, or criminals who are illegal entering and working in a region. To detect migrant sex workers, the Canadian Border Services Agency (CBSA) often works in collaboration with local police and bylaw enforcement officers to arrest and deport migrant sex workers who do not have legal permission to work in Canada. Migrant sex workers are thereby invested in avoiding police and immigration detection, creating a context of impunity and opportunity for exploitation to flourish. Since 2015, more than 200 migrant sex worker members of Butterfly alone have been fined, arrested, detained and deported from Ontario, as a result of anti-trafficking investigations.

The stigma, marginalization and criminalization associated with sex work and migrant sex workers, and the fear of detainment and deportation, creates numerous obstacles that prevent migrant sex workers’ access to non-discriminatory community, health, social and legal supports and discourage them from disclosing their identity, their work, and from discussing details of their needs with other people, thereby limiting the efficacy of services they receive to ensure optimal health, safety, security and protection of their human and labour rights.

Why we support sex workers’ human and labour rights

The struggle to improve working conditions for all migrants -- including an end to exploitative working context, racial and social profiling, the misuse of immigration tools to discriminate against migrant communities and the struggle for recognition of migrant people’s labour – must include the struggle for migrant sex workers’ rights.

We support sex work as work. The struggle for sex workers’ rights begins not only with a recognition of sex work as labour, but also the recognition of the agency and decision-making capacity of migrant sex workers. As long as sex work is considered criminal and conflated with human trafficking, migrant

sex workers will continue to be isolated and discriminated from mainstream health, social, and legal services.

We oppose the criminalization of sex work and the use of immigration prohibitions to regulate migrant sex workers. Removal of institutional and legal tools used by law enforcement to marginalize and isolate migrant sex workers results in the capacity for migrant sex workers to seek help and protection when needed. Total decriminalization of sex work – removal of the criminal laws that regulate sex work – as well as the removal of the immigration prohibition on sex work -- are first and necessary steps in the struggle for migrant sex workers’ rights. As long as sex work remains criminalized under Canadian criminal law and immigration law, justice models will not be supportive of migrant sex workers.

We demand full & permanent immigration status for all: Immediately ensure full immigration status for all migrant sex workers in Canada, without exception. Guarantee access without fear to all municipal, provincial and federal services, rights and protection to migrant sex workers. Migrants, refugees and undocumented people are vulnerable because of their precarious immigration status. They are often targeted for violence and not able to fight for their rights because of well-founded fears of being detained and deported. Full immigration status for all is essential for migrant sex workers to be able to access supports, protection, and respect for their rights.

We promote a rights-based approach rather than rescue models. An approach that assumes sex work is inherently exploitative limits understandings of the diversity of migrant sex workers, lives and realities, and the complexities of their needs and concerns. An effective strategy uses a “rights not rescue” approach which prioritizes the rights of, and support for, people at risk or those who wish to seek help, rather than relying on anti-trafficking investigations by law enforcement that claim to “rescue” sex workers. Sex worker led organizations – and their chosen allies – are best positioned to provide supports and services, that are safe, relevant, and accessible to other sex workers, particularly those who are vulnerable to violence, exploitation, and trafficking. We believe in creating opportunity and promoting the health, human, and labour rights for migrant sex workers and for access to migrant and racial justice (e.g., anti-racism and status for all) -- these are the best ways to prevent and resist exploitation, violence, and oppression against migrant sex workers.

Migrant sex workers need solidarity and open support from allies to help bring about migrant and racial justice.

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