

## How will migrant sex workers be affected?

Migrant sex workers across the globe struggle to work in healthy and safety environments without threat of arrest, imprisonment or deportation. Migrant sex workers may choose to work with third parties as they have greater difficulties working independently. This is because of their legal status, language barrier, discrimination and lack of financial resources and information etc.

If Bill C-36 becomes law, migrant sex workers will find it difficult to work as the clients will be criminalized, the venue owners or operators (eg massage parlour owners and managers) may be charged, and the sex workers and businesses may not be able to place advertisements.

Migrant sex workers may also become more isolated and underground as they would face barriers to working with the assistance of third parties or advertising, and would continue to be at risk of prosecution under the new communication law.

Again, we do not know what impact Bill C36 will have but we do know that due to racism in Canadian society, migrant workers and businesses have often been subjected to added law enforcement. Here is where you can get more information:

## Respect migrant sex workers rights

We believe that the human rights of migrant sex workers should be respected. Migrant sex workers--and all migrant workers--should be free from any kind of discrimination, criminalization, oppression and violence. We honour the freedom for people to move and the freedom for people to choose dignified work and lives. *Sex work is work! Migrant rights are workers rights! No one is illegal!*

Look out for each other while working and join us! It was because we came together that we won at the Supreme Court--if we want to be safe and work we need each other. Contact us here:

[WeAreStrut@gmail.com](mailto:WeAreStrut@gmail.com) (English)

[cswbutterfly@gmail.com](mailto:cswbutterfly@gmail.com) (Cantonese and Mandarin),

[nooneisillegal@riseup.net](mailto:nooneisillegal@riseup.net) (English, French, Spanish, Urdu)

# MIGRANT SEX WORKERS: How the new prostitution laws (Bill C-36) will affect you

In December, 2013, the Supreme Court of Canada decided that several parts of Canada's Criminal Code about prostitution are unconstitutional because they violate the rights of sex workers by undermining their health and safety. The Supreme Court decided that its ruling would take effect in one year's time, at which point the unconstitutional parts of the criminal law would no longer be in force.

In response, the federal government introduced Bill C-36. Although the Department of Justice stated that "the Act would introduce tough action to crack down on pimps and johns", the sex workers, including migrant sex workers, will be affected negatively by the new prostitution law.

The law is currently being considered by the Canadian Parliament but we expect it to become law before December 2014

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Technical information in this document is based on information contained in *Reckless Endangerment – Q&A on Bill C-36: Protection of Communities and Exploited Persons Act* as well as Mac Scott, immigration consultant at Carranza LLP and NOII Toronto. We thank the authors for their contribution.

[www.migrantsexworkers.com](http://www.migrantsexworkers.com)

## Proposed New Prostitution-Related Offences

Purchasing sexual services — Clients of sexual services would be criminalized. The new law would prohibit clients from purchasing sexual services and from communicating in any place for that purpose.

Receiving a financial or material benefit and procuring – Third parties who work in the sex industry would remain criminalized and could be charged for “receiving a material benefit” and/or “procuring”. This provision is very complicated, which makes it difficult to say exactly who would be at risk of prosecution and who would not.

Advertising the sale of sexual services - While sex workers could not be prosecuted for advertising their own sexual services, any other party that carries a sex worker’s advertisement (e.g. a newspaper, website or internet service provider) would commit a crime. Courts would have the power to authorize the seizure of such advertisements, to order their removal from the Internet, and to require the provision of information that would identify and locate the person who posted it.

Communicating for the purpose of selling sexual services - Any sex worker would commit a crime by communicating for the purpose of selling sexual services in a public place that is, or is next to, a school ground, playground or daycare center.

If C-36 is passed, the law would be as follows:

Sex workers who simply sell their own sexual services are not committing a crime. But the police and other authorities may use the prostitution, anti-trafficking and immigration laws for investigation, interception of private communication (such as phone and email) and raids on businesses. Migrant sex workers may still be arrested, prosecuted and deported.

Clients who purchase sexual services, or communicate for the purpose of purchasing sexual services, are committing a crime.

We do not know what enforcement of these laws will look like in practice. Some potential risks to you include:

- \*Increased police interference in your work, whether you work for yourself, a manager or on the street
- \*If you work for a third party, your employer may stop advertising, move locations or shut down entirely
- \*Though you may not face prostitution charges, police sweeps and raids targeting clients could bring you into contact with police and could reveal your immigration status.
- \*If you have no status, you could be removed from Canada just by being stopped by the police.
- \*If you have temporary status (study permit, work permit, visitor or permit holder) you could be removed if you are convicted of a crime and may face immigration related charges.
- \*If you are a permanent resident, you could lose your status if you are convicted of a crime with a maximum penalty of ten years (it doesn't matter what penalty you are sentenced to).
- \*In any case, play it safe, if the police charge you with something, contact an immigration lawyer, not just a criminal lawyer - the criminal lawyer may not know the immigration consequences - especially before taking a plea.
- \*Your business location may be subject to police or immigration investigations and raids
- \*If you work independently, you may have fewer clients. This may be permanent or temporary as the sex industry shifts to adjust to the new laws
- \*Your clients may be reluctant to give any screening information about themselves, including their name and phone number
- \*If you work on the street, you may already be facing increased police sweeps, ID checks, arrest. Police may be pushing you into areas of the city where you have not worked before

As well, the federal government has changed laws around so-called trafficking. This means it could be harder for you to come to Canada if you travel if you do not have permanent residency status or citizenship. Talk to an immigration lawyer or clinic before you travel if you don't have permanent status.