



Brief to the Standing Committee on Social Policy Regarding Bill 96, the *Anti-Human Trafficking Act 2017*

May 2017

Submitted by
Butterfly (Asian and Migrant Sex Workers Support Network)
Canadian HIV/AIDS Legal Network

Supported by
Canadian Alliance for Sex Work Law Reform

Reject Bill 96: Stop the harm to sex workers from anti-trafficking laws and policies

We urge the Standing Committee on Social Policy to uphold the human rights of sex workers by rejecting Bill 96, the *Anti-Human Trafficking Act 2017*, as it does not help end trafficking but endangers the safety and security of vulnerable people, particularly migrant sex workers.

“Almost ten people came together. The police asked me if I was being controlled or exploited. I told them that I was working voluntarily. They asked for my ID and took me away. I was locked up for more than two weeks before being sent back to my home country. They did not allow me to come out to pack my stuff. I was sent directly to the airport.”

– Sex worker who previously worked in Toronto

“The police came very often; my boss did not allow me to work there anymore. I am working in a small town now. I don't know where I am, but it is a five-hour drive from Toronto. I cannot go out because I don't want the neighbour to know that I am Asian. I have not left my place for more than two months.”

– Sex worker who works in a small town near Toronto

Butterfly (Asian and Migrant Sex Workers Support Network) was founded by sex workers, social workers, and legal and health professionals. It provides support to and advocates for the rights of Asian and migrant sex workers. The organization is founded upon the belief that sex workers are entitled to respect and basic human rights. Further, Butterfly asserts that regardless of their immigration status Asian and migrant sex workers should receive the same respect and human rights as other workers. Butterfly is based in Toronto and provides supports for migrant sex workers in Toronto, Ottawa, London, Oshawa and elsewhere in Ontario.

The Canadian HIV/AIDS Legal Network (“Legal Network”) promotes the human rights of people living with, at risk of or affected by HIV or AIDS, in Canada and internationally, through research and analysis, litigation and other advocacy, public education and community mobilization. We envision a world in which the human rights and dignity of people living with HIV and those affected by the disease are fully realized and in which laws and policies facilitate HIV prevention, care, treatment and support. The Legal Network’s guiding values are rooted in a focus on the human rights of marginalized populations such as sex workers, Indigenous peoples, migrant communities, people who use drugs and people in prison, and their meaningful participation in policies and programs that affect them.

Together, we make this submission to urge the Standing Committee on Social Policy to reject Bill 96, the *Anti-Human Trafficking Act 2017*, and to uphold the human rights of sex workers. Bill 96 would escalate moral panic against people who work in the sex industry, including especially youth, people of colour and migrants, resulting in the further marginalization and invisibility of sex workers and their increased exposure to danger.

Conflation of human trafficking and sex work

Anti-trafficking campaigns often promote misleading messages and statistics that conflate sex work with trafficking (e.g., false claims of “rescuing” potential victims, which increase anxiety, moral panic and racism against racialized migrants and sex workers). Instituting a “Human Trafficking Awareness Day” in Ontario to raise public awareness of the problem of trafficking is misguided and has the potential to reproduce harmful stereotypes of sex work, particularly for migrant sex workers. The term “trafficking” itself has silenced the voices and agency of people working in the sex industry and obscured public understanding of their experiences. Sex workers’ labour and work relationships are frequently framed as “transactional or national organized crime,” a view that increases stigma, marginalization and discrimination against sex workers and pushes them further underground. For example, an increasing number of hotels have stopped renting rooms to sex workers, especially migrant and Asian sex workers, with some even contacting the police or the Canada Border Services Agency when they learn a sex worker is working in their hotel. This practice has forced sex workers to work in hazardous environments. Policies that address possible exploitation in the sex industry need a nuanced and more complex rights-based approach rather than one based on fear, in order to actually address the lived realities and challenges of sex workers who are migrant, racialized or young.

A particularly problematic provision of Bill 96 is the definition of “victim,” defined in section 2 as a “victim of human trafficking and includes a person who *may be a victim* of human trafficking” (emphasis added). This unnecessarily broad definition opens the door to framing all sex workers as victims, particularly youth, people of colour and migrants, further

conflating sex work with trafficking. Already, the sex work community and sex workers' allies are perceived as traffickers, an issue that is particularly pronounced for youth who are in custody. Yet co-workers and clients can be helpful resources and allies in protecting sex workers' rights, especially for migrant sex workers who may have limited resources and face language barriers. Even sex workers who work in association with other sex workers may be criminally prosecuted, and under Bill 96, they could be vulnerable to a restraining order or an action for damages. As a result, sex workers may lose vital peer supports that can be helpful for people who experience problematic labour conditions. Bill 96 would thus further marginalize and isolate sex workers because their friends, family and community members could be framed as traffickers.

Framing all sex workers as victims or trafficking victims has led some sex workers to complain that they are forced to identify themselves as victims in order to obtain social services or to avoid being treated as criminals by the police or non-profit organizations. This approach not only denies sex workers' agency, but also fails to respond to the socioeconomic and political oppression that sex workers experience. A myopic focus on trafficking also fails to support sex workers when they face actual risks including sexual assault, robbery, blackmail or even murder. For example, Butterfly attempted to seek information and support from the Special Victims Unit of the Toronto Police Services regarding the death of Annie Li. But the Special Victims Unit was restructured and renamed the "Human Trafficking Enforcement Team." This change — rather than ensuring the safety and human rights of sex workers — resulted in a reduced mandate focusing only on cases of human trafficking. The termination of the Special Victims Unit dissolved an important platform through which sex workers, who are not forced into the industry, could report any risks they faced.

The rhetoric of anti-trafficking, which underpins much of Bill 96, assumes sex workers, and particularly migrant, racialized and young sex workers, are all trafficking victims, which is not the case. In reality, well-funded anti-trafficking campaigns merely increase surveillance of sex workers, meaning migrant sex workers are at greater risk of being arrested, detained and deported.

Increased police surveillance

Another — perhaps unintended — consequence of Bill 96 will be increased policing and enforcement of perceived victims of human trafficking, which will lead to greater police surveillance, targeting, arrests and detention of sex workers and deportation of migrant sex workers, none of which will increase public safety. Increased police surveillance forces sex workers, and Asian, migrant and young female sex workers in particular, to go underground, leading to greater isolation and exclusion of all sex workers, with negative impacts on their health, equity, dignity, safety and human rights. In Butterfly's experience, migrant sex workers are more vulnerable in cities such as London and Ottawa, where they more commonly face police abuse and violence that coincide with increasing anti-trafficking investigations and initiatives.

Through Butterfly's outreach program, women have routinely reported that they face police harassment and intimidation. More than 60% of migrant sex workers have experienced different kinds of violence and four Asian and migrant sex workers (Evelyn Bumatay Castillo, Jiali Zhang, Tammy Le and Annie Li) were murdered over the last three years. Yet an internal survey of Butterfly members indicates that less than 5% would call the police.

Police routinely call Canada Border Services Agency when the sex workers they confront are not citizens. When sex workers face harm, the police are not a safe option for them to call. Bill 96 will result in more workers being forced to work in less visible spaces to avoid being caught in the vast net of the definition of a “human trafficking victim,” creating conditions for greater exploitation and risk for sex workers.

Conclusion

Instead of increased policing, sex workers need to have greater autonomy, safer working conditions and greater ability to conduct their work free of stigma. Though trafficking is one of the issues sex workers may face, enacting a “Human Trafficking Awareness Day,” promoting the use of restraining orders, and establishing a tort of human trafficking does nothing to address the harms of trafficking. Instead of encouraging people to seek help from law enforcement when they experience exploitation or violence, Bill 96 pushes people away from seeking help and support. Politicians should focus instead on developing an anti-trafficking model which provides support to people at risk of exploitation rather than employs law enforcement as the method of protection. They should invest in social supports such as social assistance, housing support and child care support, as well as sex worker-led services to prevent conditions that allow exploitation to occur. In particular, safe supports, employment and educational opportunities are needed for Indigenous and racialized youth, lesbian, gay, trans, Two-Spirit and gender non-conforming youth, and youth who use drugs, who are overrepresented among homeless youth who sell or exchange sexual services. Finally, politicians must address the tangible human rights abuses that a person might face in the sex industry, such as precarious labour rights, domestic violence, physical violence and other forms of systemic oppression. Together, these would be far more effective interventions to address human trafficking than Bill 96.

Recommendations:

1. Committee members should reject Bill 96, the *Anti-Human Trafficking Act 2017*, because it will not end human trafficking but will cause more harm to people who are involved in the sex industry.
2. The government should stop raids, detentions and deportations of sex workers. Canada Border Services Agency should never be involved in anti-trafficking investigations.
3. Stop using criminal laws to address sex workers' migration and review anti-trafficking policies with sex workers' organizations to develop measures that are rights-based and supportive to the community.
4. Support peer-led models so that the sex work community can connect with others and assist in actual cases of exploitation and abuse.
5. Amend section 1 of the Ontario *Human Rights Code* (“Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability”) so “previous employment” is added as a prohibited ground of discrimination. This would help prevent sex workers from being discriminated against in future employment and accommodation, among other areas.

Contact:

Elene Lam

Executive Director, Butterfly (Asian and Migrant Sex Workers Support Network)

416 906-3098; cswbutterfly@gmail.com

Sandra Ka Hon Chu

Director of Research and Advocacy, Canadian HIV/AIDS Legal Network

416 595-1666 ext. 232; schu@aidslaw.ca