

Brief submitted to the Standing Committee on the Status of Women
For their study on: Human Trafficking of Women, Girls, and Gender Diverse People
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Sex workers in Canada face an alarming web of punitive laws and policies from all levels of government that attempt, among other things, to crush the measures and networks that keep them safe (Fudge et al., 2021 and Appendix A). These include laws criminalizing sex work, including those passed via the *Protection of Communities and Exploited Persons Act* which prohibit working in public spaces, “materially benefiting from” and “procuring” sex work, purchasing sexual services (as well as to communicate for that purpose), and advertising sexual services, laws ostensibly aimed at criminalizing human trafficking, and immigration regulations that prohibit migrant workers from working in the sex industry. Additionally, a growing number of provincial human trafficking laws have been advanced that claim to promote awareness of human trafficking and facilitate its investigation (see Appendix A for a case study of *Ontario’s Combating Human Trafficking Act*, 2021).¹ Yet the experiences of Black, racialized, Indigenous, and migrant sex workers show that despite their nominally benevolent aims, anti-trafficking enforcement is frequently a source of harm rather than support for sex workers, particularly those most marginalized (Butterfly, 2018a; Chu et al., 2019).

Human trafficking is a loaded term used to describe everything from sex work to intimate partner violence to labour exploitation (De Shalit & van der Meulen, 2019; Hunt, 2015; Kempadoo, 2005; Roots, 2013, 2022; Sibley, 2020). Among many policymakers, law enforcement, and community-based services for survivors of human trafficking, the term is almost always associated with sex trafficking, given the pervading view that sex work is an illegitimate form of labour and that people who sell or trade sexual services are all victims of sexual exploitation (De Shalit, 2021; Durisin & van der Meulen, 2021; Sibley, 2020). Routinely, police construe all sex work as trafficking, and correspondingly, all third parties who work with and support sex workers as human traffickers — a position many social service providers also adopt, at the expense of sex workers and their networks of support. This, in turn, falsely inflates statistics of human trafficking victims.

Already, research shows how existing human trafficking initiatives have been exploited as a pretext to invade sex workers’ workplaces (Butterfly, 2018a, 2018b; Chu et al., 2019). In particular, Black, Indigenous, Asian, and migrant women have been subject to police profiling and targeting, including presumption of involvement in sex work (Hunt, 2015; Kaye, 2017; Maynard, 2017, 2018). Black women are often assumed to be involved in sex work merely for walking in public spaces due to sexualized stereotypes about them, and Indigenous and Black sex workers have themselves been accused of human trafficking when they work collectively (Crenshaw & Ritchie, 2015; Maynard, 2017; Ontario Human Rights Commission, 2003). Asian women and their networks of support have been racially profiled by law enforcement as human trafficking victims and members of “criminal organizations,” respectively, but those same women are then ticketed for municipal bylaw infractions or detained for immigration infractions, often resulting in deportation (Butterfly 2018a).

One sweeping commonality among all sex workers’ experience is of law enforcement as a source of repression, not protection (Bruckert & Hannem, 2013; Chu et al., 2019; Kur & Duffy, 2022). As Black women’s experiences with law enforcement make clear, policing is a form of racial and gendered violence. Available data suggests that Black women are policed at rates significantly higher than white women. In one study, Black women were *three times* more likely than white women to have been stopped by police (Owusu-Bempah & Wortley, 2014). Notably, in the 19th and early 20th century, Black women were disproportionately impacted by prostitution-

¹ Examples include Alberta, *Protecting Survivors of Human Trafficking Act*, 2020, c. P-26.87; Manitoba, *The Child Sexual Exploitation and Human Trafficking Act*, C.C.S.M. c. C94 and Saskatchewan, *The Protection from Human Trafficking Act*, SS 2021, c. 23.

related arrests and charges in many Canadian cities (see Backhouse, 1985; Mosher, 1998). In a variety of studies, Black women described incidents in which the police harassed them based on an assumption of their involvement in sex work (see Bernard, 2001; OHRC, 2003). The Ontario Human Rights Commission (2017) also reported on racialized women's experiences of being assumed to be a sex worker that contributed to their profiling (or that of others). In one such case, a Black woman and her white boyfriend were stopped by police because they thought he was a client, and she was a sex worker. A Halifax-based report found that Black residents are highly over-represented in all street check categories and are 4.5 times more likely to be involved in a "prostitution-related" check (Wortley, 2019).

Among migrant women, Butterfly (2018a) has repeatedly documented sex workers' experiences of human rights violations at the hands of law enforcement (see also Lam 2016). Migrant sex workers have been subjected to harassment and discrimination, arbitrary arrests, and detention. While in the custody of anti-human trafficking investigators, migrant sex workers have reported being prevented from accessing legal representation and support, and many have lost their immigration status and been deported. In a 2018 study by Butterfly of Asian migrant massage and holistic centers in Toronto, more than one-third reported having been abused or harassed by bylaw enforcement or police officers during anti-human trafficking investigations. Out of 61 workers surveyed, the study found no instances of trafficking or forced labour (Lam, 2018). In a 2018 submission to a federal Parliamentary Committee studying human trafficking in Canada, Butterfly (2018b) also described the arrests and deportations of 23 of its members since 2015. The workers reported degrading experiences of detention and confiscation of money and other personal belongings by law enforcement officers during human trafficking investigations. While one worker reported her exploitative boss to the authorities, the information was shared with an anti-trafficking team and a raid was carried out at her workplace, resulting in the arrest and deportation of her co-workers, and eventually the worker herself, after it was revealed to immigration authorities that she was working in Canada without status.

In research conducted by the HIV Legal Network, Indigenous sex workers also shared their experiences of pervasive racial profiling, as well as arrest, incarceration, and physical assault by police investigating sex work, including an instance where an Indigenous worker was charged with human trafficking and running a "prostitution ring" merely for working with other sex workers in a shared workplace (Chu et al., 2019). As the Vancouver Sex Workers Rights Collective (2018), a "diverse collective of Indigenous individuals who participate or participated in sex work or trade or provide sexual services in Downtown Eastside of Vancouver" (p. 2), submitted to the National Inquiry into Missing and Murdered Indigenous Women and Girls:

The use by academics, activists, the media and governments of human trafficking as *the* framework or lens through which responses to murdered and missing Indigenous women and girls are considered is inappropriate, ineffective and harmful. The focus on human trafficking shifts attention away from the systemic colonial factors that created and maintain the circumstances and structures of violence. This approach focuses resources and responses to violence into increased policing and away from programs and services that may help individuals that are facing specific types of violence that are conflated into human trafficking (child exploitation, sexual exploitation or violence experienced when participating in sex work). Police attention on individuals who participate in sex work reclassified as victims in the human trafficking framework puts these individuals at risk. (p. 8)

The extension of law enforcement powers also facilitates the racial profiling of Black men. In a recent study, Millar and O'Doherty (2020) found that after the passage of the *Protection of Communities and Exploited Persons Act* in 2014, law enforcement in Canada have continued to treat sex work and trafficking interchangeably, and that Black communities in particular have been associated with sex work, particularly vis-à-vis the stereotype of Black men as "pimps". The same study found that anti-trafficking prosecutions have

steadily increased, and Black and Caribbean men comprised at least 40% of primary or co-accused in over 87 trafficking cases prosecuted between 2006 and 2017. Researchers also found media coverage related to human trafficking saturated with images of accused Black men in a manner that was not seen when the accused was white (Millar & O’Doherty, 2020). A study by Roots (2022) that analyzed 123 court information and indictments from Ontario found that the primary target of human trafficking investigations in Canada has become the prototypical “Black pimp,” a figure easily resurrected and redeployed as part of Canada’s anti-human trafficking efforts. Closer attention to the role of third parties in the sex industry illuminates that the terminology of “pimping” is often used in such a wide-spanning manner that it encapsulates not only relationships of physical or financial abuse in the context of sex work but an assortment of other consensual roles and services in the industry from arranging transportation to security (Bruckert and Parent, 2018).

Conclusion

Contemporary state-led anti-trafficking efforts serve to both effectively obscure and exacerbate the root causes of social, racial, and economic disenfranchisement that create the conditions rife for exploitation and abuse of all kinds: anti-Black criminalization, the racialization of poverty and housing precarity, as well as “current and historical colonialism [and] the criminal and immigration laws that place people in a rights-vacuum” (Maynard, 2015, 41) in the first place. Sex workers have been at the helm of movements to eradicate violence against sex workers, forced labour, racism, and other exploitative working conditions, as well as intimate partner violence, and to provide education around safer sex and HIV prevention — all while demanding labour and citizenship rights for all. In effect, communities of people who sell and trade sex have been and continue to organize in their own communities to address the myriad of harms that are increasingly lumped under the catch-all term of “trafficking” (see, for example, Native Youth Sexual Health Network, Black Sex Workers Collective, Butterfly). Criminalization of sex work, couched as ending exploitation, effectively undercuts this organizing, and minimizes the ability of different communities to undertake meaningful, community-led anti-violence work.

Sex workers are best positioned to observe situations of violence and exploitation within the industry, but the criminalization of sex work and the terrifying experiences of sex work and human trafficking investigations, among other forms of criminalization, only serve to further marginalize sex workers from supports in times of need. Increasing surveillance, criminalization, and violence by police does nothing to end violence, gendered violence, and labour exploitation experienced by people who sell or trade sex.

Any measure of protection that relies on policing and surveilling marginalized communities to fulfill its mandate — the way anti-trafficking measures do — facilitates labour exploitation by pushing people away from services and into isolation where there are no legal or social protections. In practice, anti-human trafficking initiatives function effectively as anti-sex work initiatives, and sex workers and the people with whom they work are indiscriminately targeted for surveillance and investigation. If policymakers are truly concerned about these abuses, they must address structural barriers such as poverty, precarious immigration status, and lack of access to affordable housing and health and social services, support the repeal of sex work offences and immigration regulations that make it more difficult for sex workers and migrants to work safely, and support access to permanent status for migrants so that they are not forced into vulnerable positions where they could be exploited in any industry where human trafficking — that is, forced labour — occurs. The decriminalization of sex work and the regularization of immigration status would be meaningful steps towards ending labour abuses.

RECOMMENDATIONS FOR A RIGHTS-BASED APPROACH TO ADDRESS EXPLOITATION AND VIOLENCE

The most effective way to end violence and exploitation is to listen to those who are experiencing and mitigating it within the context of criminalization and targeted violence. Sex worker-led organizations hold the knowledge, experience, and trust from sex workers to best determine what services sex workers need, how these services

should be implemented, and above all, how to address violence in their lives. This Committee needs to center the perspectives and solutions put forward by people who are closest to the issues.

Recommendation 1: Remove criminal, immigration, and municipal laws and regulations.

- Repeal the *Protection of Communities and Exploited Persons Act* and all other sex work-specific criminal offences.
- Repeal regulations in the *Immigration and Refugee Protection Regulations* that prohibit sex work. The Canada Border Services Agency needs to immediately stop “visiting” massage parlours, and all law enforcement need to cease raids and intrusions into sex workers’ workplaces and cease detention and deportation of migrant sex workers.
- Expunge sex workers’ records for sex work convictions that impede economic and physical mobility.
- Repeal municipal bylaws and stop bylaw enforcement that target sex work or the adult entertainment industry, e.g., body rub parlours, strip clubs, and holistic centres.

Recommendation 2: Ensure full and permanent immigration status for all in Canada, without exception and provide everyone with access without fear to services.

Recommendation 3: Reframe funding initiatives so that they are not dependent on “human trafficking” frameworks.

Anti-trafficking services (including most “victim funds”) are a barrier to sex workers getting support. They often require sex workers to identify as “victims of human trafficking” or to “exit” sex work. This committee needs to review existing anti-trafficking policies and programs that conflate sex work with human trafficking, and revise policies to remove assumptions that sex work is a form of trafficking or sexual exploitation. In this vein: recognize sex work as work and invest in projects that address labour exploitation and improve working conditions for sex workers.

Recommendation 4: Invest money into sex worker-led community initiatives – Indigenous, Black, and migrant sex worker led groups.

Reallocate human trafficking resources from law enforcement to settlement, social, health, legal, and housing services and supports without requirement to identify as a trafficking victim. Sex workers need non-judgmental programs that do not minimize opportunities for sex work, seek to abolish sex work or conflate sex with trafficking.

Recommendation 5: Address root causes of violence and exploitation by: i. ensuring access to food and secure housing for marginalized and low-income communities (Black, Indigenous, migrant, drug-using communities and people with disabilities); ii. expanding funding and lowering barriers to social, legal, health and other supports for survivors of violence; and iii. ensuring long-term sustained funding for community-based anti-violence programs (i.e., not tied to law enforcement).

APPENDIX A

Policing Human Trafficking: Exacerbating Racial and Gendered Violence

Sandra Ka Hon Chu and Robyn Maynard

Sex workers in Canada face an alarming web of punitive laws and policies from all levels of government that attempt, among other things, to crush the measures and networks that keep them safe (Fudge et al., 2021). Sex workers across the country supported a successful court challenge to repeal criminal prohibitions on bawdy-houses, “living on the avails” of prostitution, and communicating in public for purposes of prostitution in *Bedford vs. Canada*. In 2013 the Supreme Court of Canada ruling on the case accepted longstanding claims by communities who sell or trade sex — that the criminalization of sex work fueled violence against sex workers and undermined their ability to facilitate their own and one another’s safety (Belak, 2018). The federal Conservative government of the day, however, disregarded decades of evidence in support of decriminalization and, in 2014, passed Bill C-36, or the *Protection of Communities and Exploited Persons Act*, which effectively re-criminalized most activities related to sex work under the guise of preventing exploitation. In addition to re-introducing prohibitions on working in public spaces, “materially benefiting from,” and “procuring” sex work, the legislation added new layers of criminalization, making it a crime for the first time in Canadian history to purchase sexual services (as well as to communicate for that purpose) and to advertise sexual services (Durisin et al., 2018).

The new sex work laws work alongside federal legislation that criminalizes human trafficking, prohibiting actions “for the purpose ... of exploitation,” and preventing via immigration regulations, migrant workers from working in the sex industry. Additionally, a growing number of provincial human trafficking laws have been advanced that claim to promote awareness of human trafficking and facilitate its investigation². Yet the experiences of Black, racialized, Indigenous, and migrant sex workers show that despite their nominally benevolent aims, anti-trafficking enforcement is frequently a source of harm rather than support for sex workers, particularly those most marginalized (Butterfly, 2018a; Chu et al., 2019).

In 2020, the Ontario government announced an investment of \$307 million over five years in an alleged strategy to combat human trafficking and sexual exploitation. The unprecedented scale of the financial investment in the strategy coincided with some of the most comprehensive budget cuts and privatization of services in Ontario. In particular, some of these massive resources have been funneled into sweeping human trafficking investigations. One such high-profile campaign is Operation Northern Spotlight, a yearly initiative undertaken by the Royal Canadian Mounted Police (RCMP), Ontario Provincial Police (OPP), and numerous municipal police forces that has involved police posing as clients and intruding on sex workers in their workplaces. While these initiatives purport to protect the safety and security of potentially vulnerable women, they have instead resulted in the arrests of Black, racialized, and migrant people for sex work and immigration offences, and the laying of numerous

² Examples include Alberta, Protecting Survivors of Human Trafficking Act, 2020, c. P-26.87; Manitoba, The Child Sexual Exploitation and Human Trafficking Act, C.C.S.M. c. C94 and Saskatchewan, The Protection from Human Trafficking Act, SS 2021, c. 23.

bylaw infraction charges. As migrant sex worker organization Butterfly (2018b) has described, “the current ‘Rescue Model’, as reproduced by Operation Northern Spotlight, not only harms sex worker communities, but increases the surveillance, arrest, detainment and deportation of sex workers, particularly migrant sex workers. Police and city bylaw enforcement officers actively share information with [Canada Border Services Agency]” (p. 3; see also Shih, 2021).

In 2021, the moral panic fueling human trafficking initiatives culminated in the passage of Bill 251, the *Combating Human Trafficking Act, 2021*. The law was justified on the grounds of sensationalist and unfounded allegations, such as 13 being the average age of recruitment into sex trafficking (see Smith & Hale, 2021) and that “human trafficking is one of the fastest-growing crimes worldwide” (Ontario news release, 2021). It requires the province to maintain an anti-human trafficking strategy; enables the enactment of regulations necessitating unspecified persons whose employers are required to provide them with training to report instances of suspected human trafficking; and imposes various demands on advertisers of sexual services, including record-keeping and reporting requirements, and obligations to make specified information available to the public (*Anti-Human Trafficking Strategy Act, 2021*). While the bill nominally combats human trafficking, sex workers have highlighted that the Bill’s lack of clarity around the definition of “trafficking” has resulted in the wholesale surveillance, investigation, and punishment of the entire ecosystem of sex work (Butterfly & HIV Legal Network, 2021). Perhaps most troublingly, the law expands the ever-growing net of law enforcement powers to investigate and respond to suspected cases of human trafficking, including by deputizing a new category of inspectors to ensure compliance with the legislation (*Anti-Human Trafficking Strategy Act, 2021*).

Under the Act, inspectors may, without a warrant or notice, and at any time, enter and inspect any place, including a dwelling, to determine compliance with the legislation as long as it is with “the consent of the occupant,” notwithstanding obvious disparities in power between an inspector and the person being inspected. The inspectors are also granted unfettered powers to examine, demand, remove, or copy anything and question a person on any matter that may be relevant to the inspection. Non-compliance is a punishable offence subject to a fine of \$50,000 or \$100,000 for an individual or corporation, respectively. The broad investigative powers granted to inspectors — arguably broader than the search-and-seizure powers that police already have under emergency circumstances — give them frighteningly wide latitude based on their sole discretion in determining what may be relevant to an inspection (*Anti-Human Trafficking Strategy Act, 2021, sections 7-9*). At the same time, an individual is not permitted to refuse to answer questions on any matter that is or may be relevant to the inspection. This potentially requires sex workers who face an array of negative consequences for engaging in criminalized labour (including stigma, discrimination, the possibility of eviction, travel bans, child apprehension, criminal charges, and loss of immigration status), to disclose details of their work with little knowledge as to whether an inspector’s questions are relevant to a human trafficking investigation. Importantly, this interrogation occurs in a context of extraordinarily uneven power relationships between law enforcement and sex workers, especially Black, Indigenous, Asian, and migrant sex workers, who may feel compelled to let people into their residences or workplaces and to participate in an interrogation that risks criminalizing their co-workers, friends, family, and community more broadly.

The coercive possibility of heavy-handed fines for non-cooperation is compounded for migrant workers who may not understand or speak English.

Curiously, the Act acknowledges that “certain populations may be disproportionately impacted by human trafficking, such as women and girls and racialized groups including Indigenous and Black communities” (*Anti-Human Trafficking Strategy Act*, 2021, preamble), and lists the need to promote and protect “human rights” and be guided by “diverse sources of evidence” among its foundational principles (*Anti-Human Trafficking Strategy Act*, 2021, section 5). Yet, as we detail further below, this sweeping surveillance will lead to various harms borne by Black, Indigenous, Asian, and migrant sex workers, including major and unwarranted intrusions on privacy and racial profiling, driving sex workers into more isolated spaces based on blurry understandings of human trafficking that too often conflate it with sex work.

Imprecise Understandings of Human Trafficking and the Impacts of Current Approaches to Human Trafficking

As others have noted, human trafficking is a loaded term used to describe everything from sex work to intimate partner violence to labour exploitation (De Shalit & van der Meulen, 2019; Hunt, 2015; Kempadoo, 2005; Roots, 2013, 2022; Sibley, 2020). Among many policymakers, law enforcement, and community-based services for survivors of human trafficking, the term is almost always associated with sex trafficking, given the pervading view that sex work is an illegitimate form of labour and that people who sell or trade sexual services are all victims of sexual exploitation (De Shalit, 2021; Durisin & van der Meulen, 2021; Sibley, 2020). Illustrating the amorphous nature in which human trafficking is framed, the Ontario government’s list of “signs that someone may be trafficked” is meaninglessly broad (MCCSS, 2017, n.p.). Routinely, police construe all third parties who work with and support sex workers as human traffickers — a position many social service providers also adopt, at the expense of sex workers and their networks of support. This, in turn, falsely inflates statistics of human trafficking victims, which suggest “approximately two-thirds of police reported human trafficking cases in Canada occur in Ontario” (MCCSS, 2022, n.p.) Similarly, Bill 251 imprints the notion that sexual services are equivalent to human trafficking, subjecting advertisers of these services to additional surveillance and reporting requirements.

In a context when sex work and trafficking are often understood to be one and the same, the deputization of provincial inspectors to determine compliance with the law via expansive access to workplaces means that people who are working in a wide assortment of sex work establishments will be subject to unwanted surveillance, abuse, and possibly violence. The Black Legal Action Centre (BLAC), an Ontario-based community legal clinic with the mandate of combatting systemic anti-Black racism in the province, told the Standing Committee on Justice Policy on Bill 251 that “this Bill has the potential to increase the criminalization of sex work and sex workers, by distorting the lived realities of sex workers” and that “this approach has the potential for particularly debilitating consequences for Black, Indigenous and racialized people more generally” (BLAC, 2021, 2). Already, research shows how existing human trafficking initiatives have been exploited as a pretext to invade sex workers’ workplaces (Butterfly, 2018a, 2018b; Chu et al., 2019). In particular, Black, Indigenous, Asian, and migrant women

have been subject to police profiling and targeting, including presumption of involvement in sex work (Hunt, 2015; Kaye, 2017; Maynard, 2017, 2018). Black women are often assumed to be involved in sex work merely for walking in public spaces due to sexualized stereotypes about them, and Indigenous and Black sex workers have themselves been accused of human trafficking when they work collectively (Crenshaw & Ritchie, 2015; Maynard, 2017; Ontario Human Rights Commission, 2003). Asian women and their networks of support have been racially profiled by law enforcement as human trafficking victims and members of “criminal organizations,” respectively, but those same women are then ticketed for municipal bylaw infractions or detained for immigration infractions, often resulting in deportation (Butterfly 2018a).

One sweeping commonality among all sex workers’ experience is of law enforcement as a source of repression, not protection (Bruckert & Hannem, 2013; Chu et al., 2019; Kur & Duffy, 2022). As Black women’s experiences with law enforcement make clear, policing is a form of racial and gendered violence. Black women being harassed and assaulted by the police dates back to, at least, the 1980s (Mugabo, 2016; Rocha, 2005, cited in Tator & Henry, 2006). The police shooting of Sophia Cook in 1989 brought the issue, at least momentarily, into the spotlight, while Black women — including Cook, who survived the shooting — organized to address the injustice (*Windsor Star* January 29, 1990; Holden, 1990). Available data suggests that Black women are policed at rates significantly higher than white women. In one study, Black women were *three times* more likely than white women to have been stopped by police (Owusu-Bempah & Wortley, 2014). Another Montréal-based study on Black youth found that Black girls were three times more likely than white girls to have been arrested two or more times (Bernard & McAll, 2008, p. 18). A 2019 report on street checks commissioned by the Nova Scotia Human Rights Commission found that Black women are “significantly over-represented” in street checks (519 per 1,000), being stopped more than white men (481 per 1000), and at a rate 3.6 times greater than white women (143 per 1,000) (Wortley, 2019, p. 112).

In the U.S., a significant body of research has addressed the policing of Black sex workers (for example, McTighe & Haywood, 2017; Richie & Mogul, 2007), but no such study has yet been published in Canada. Historical data suggests racially disproportionate forms of policing vis-à-vis prostitution-related arrests and charges. Notably, in the 19th and early 20th century, Black women were disproportionately impacted by prostitution-related arrests and charges in many Canadian cities (see Backhouse, 1985; Mosher, 1998). Existing research further suggests that law enforcement officers commonly associate Black women with prostitution. As co-author Maynard (2017) has written elsewhere, “the mere presence of a Black female body in public space is sexualized, and prostitution is frequently assumed” (p. 138). While no large-scale study has been conducted in Canada, in a variety of studies, Black women described to researchers’ incidents in which the police harassed them based on an assumption of their involvement in sex work (see Bernard, 2001; OHRC, 2003). This was seen in the case of Stacy Bonds and Audrey Smith, both Black women in Canada who in 2008 and 1993 respectively were subject to high profile abusive strip searches by police officers under the pretext that they may have been involved in prostitution (see Lawson, 2002; Maynard, 2017; Tanovich, 2011). The Ontario Human Rights Commission (2017) also reported on racialized women’s experiences of being assumed to be a sex worker that contributed to their profiling (or that of others). In one such case, a

Black woman and her white boyfriend were stopped by police because they thought he was a client, and she was a sex worker. A Halifax-based report found that Black residents are highly over-represented in all street check categories and are 4.5 times more likely to be involved in a “prostitution-related” check (Wortley, 2019). This suggests that Black women are subject to intensive rates of policing in Canada, and that presumptions of involvement in sex work continue to inform the profiling of Black women.

Given the ongoing criminalization of Black life in North America, policing for Black sex workers, just like for Black women, is more likely to cause harm than to prevent or intervene in harm. For Black women who are involved in sex work such as Moka Dawkins, a Black trans sex worker who was criminally charged and incarcerated for protecting herself from violence, and Alloura Wells, a racialized, homeless transgender woman who was believed to be involved in sex work and whose disappearance was overlooked, policing has not only failed to provide support but, in Dawkins’ case, been the source of harm. This fits within a broader pattern documented in the United States by sociologist Beth Richie (2012): that when criminal laws are brought under the guise of protecting women, it is Black women who are disproportionately and predominantly criminalized (Davis, 1997; Mirchandani & Chan, 2005; Sudbury, 2002).

Among migrant women, Butterfly (2018a) has repeatedly documented sex workers’ experiences of human rights violations at the hands of law enforcement. Migrant sex workers have been subjected to harassment and discrimination, arbitrary arrests, and detention. To justify their ongoing detention, even false evidence has been used against them. While in the custody of anti-human trafficking investigators, migrant sex workers have reported being prevented from accessing legal representation and support, and many have lost their immigration status and been deported. In a 2018 study by Butterfly of Asian migrant massage and holistic centers in Toronto, more than one-third reported having been abused or harassed by bylaw enforcement or police officers during anti-human trafficking investigations. Out of 61 workers surveyed, the study found no instances of trafficking or forced labour (Lam, 2018).

In a 2018 submission to a federal Parliamentary Committee studying human trafficking in Canada, Butterfly (2018b) also described the arrests and deportations of 23 of its members since 2015. The workers reported degrading experiences of detention, confiscation of money (up to \$50,000), and other personal belongings by law enforcement officers during human trafficking investigations. One worker described being locked up in chains even though she had been identified as a suspected victim of trafficking. Another worker reported her exploitative boss to the authorities. The information she reported was shared with an anti-trafficking team and a raid was carried out at her workplace, resulting in the arrest and deportation of her co-workers, and eventually the worker herself, after it was revealed to immigration authorities that she was working in Canada without status.

Such anti-Asian racism has significant historical precedent. The very first ban in Canadian immigration law on the grounds of race and gender was implemented in 1885, with section 9 of the *Chinese Immigration Act* directing that “no permit to land shall be granted [...] to any Chinese woman who is known to be a prostitute” (Chinese Immigration Act, 1885, section 9). As noted in the 1885 *Report of the Royal Commission on Chinese Immigration*, “the Chinese are the only people coming to the continent the great bulk of whose women are prostitutes” and “Chinese prostitutes are more

shameless than white women who follow the same pursuit, as though...educated for it from their cradle” — marking Chinese women as legitimate targets for state surveillance because of their racialized inclination for sex work (Canada, 1885).

In research conducted by the HIV Legal Network, Indigenous sex workers also shared their experiences of pervasive racial profiling, as well as arrest, incarceration, and physical assault by police investigating sex work, including an instance where an Indigenous worker was charged with human trafficking and running a “prostitution ring” merely for working with other sex workers in a shared workplace (Chu et al., 2019; see also Victoria Flett’s chapter in this volume). As the Vancouver Sex Workers Rights Collective (2018), a “diverse collective of Indigenous individuals who participate or participated in sex work or trade or provide sexual services in Downtown Eastside of Vancouver” (p. 2), submitted to the National Inquiry into Missing and Murdered Indigenous Women and Girls:

The use by academics, activists, the media and governments of human trafficking as *the* framework or lens through which responses to murdered and missing Indigenous women and girls are considered is inappropriate, ineffective and harmful. The focus on human trafficking shifts attention away from the systemic colonial factors that created and maintain the circumstances and structures of violence. This approach focuses resources and responses to violence into increased policing and away from programs and services that may help individuals that are facing specific types of violence that are conflated into human trafficking (child exploitation, sexual exploitation or violence experienced when participating in sex work). Police attention on individuals who participate in sex work reclassified as victims in the human trafficking framework puts these individuals at risk. (p. 8)

The extension of law enforcement powers also facilitates the racial profiling of Black men. In a recent study, Hayli Millar and Tamara O’Doherty (2020) found that after the passage of the *Protection of Communities and Exploited Persons Act* in 2014, law enforcement in Canada have continued to treat sex work and trafficking interchangeably, and that Black communities in particular have been associated with sex work, particularly vis-à-vis the stereotype of Black men as “pimps”. The same study found that anti-trafficking prosecutions have steadily increased, and Black and Caribbean men comprised at least 40% of primary or co-accused in over 87 trafficking cases prosecuted between 2006 and 2017. Researchers also found media coverage related to human trafficking saturated with images of accused Black men in a manner that was not seen when the accused was white (Millar & O’Doherty, 2020). A study by Katrin Roots (2022) that analyzed 123 court information and indictments from Ontario found that the primary target of human trafficking investigations in Canada has become the prototypical “Black pimp,” a figure easily resurrected and redeployed as part of Canada’s anti-human trafficking efforts. Another study in the United States by Kathleen Williamson and Anthony Marcus (2017) described the enforcement of anti-trafficking laws in the United States as a form of “Black criminalization,” finding that 62% of national sex trafficking prosecutions involved Black people, describing this as a serious and systemic human rights violation (see also Bernstein, 2012).

As these experiences with law enforcement make clear, policing human trafficking fuels racial and gendered violence that will be exacerbated by the *Combating Human Trafficking Act, 2021*. The

legislation will do profound harm to sex workers, while failing to meaningfully address many forms of gender-based violence and exploitative working conditions that currently fall under the umbrella term of human trafficking.

Conclusion

Contemporary state-led anti-trafficking efforts serve to both effectively obscure and exacerbate the root causes of social, racial, and economic disenfranchisement that create the conditions rife for exploitation and abuse of all kinds: anti-Black criminalization, the racialization of poverty and housing precarity, as well as “current and historical colonialism [and] the criminal and immigration laws that place people in a rights-vacuum” (Maynard, 2015, 41) in the first place. From the creation of by-and-for programming to legal challenges to anti-violence programs, sex workers have been at the helm of movements to eradicate violence against sex workers, forced labour, racism, and other exploitative working conditions, as well as intimate partner violence, and to provide education around safer sex and HIV prevention — all while demanding labour and citizenship rights for all. In effect, communities of people who sell and trade sex have been and continue to organize in their own communities to address the myriad of harms that are increasingly lumped under the catch-all term of “trafficking” (see, for example, Native Youth Sexual Health Network, Black Sex Workers Collective, Butterfly). Criminalization of sex work, couched as ending exploitation, effectively undercuts this organizing, and minimizes the ability of different communities to undertake meaningful, community-led anti-violence work.

Introducing more policing, largely unchecked, into Black, Indigenous, racialized, and migrant communities, in a context when some governments have only nominally committed to addressing systemic anti-Black and anti-Indigenous racism, will only exacerbate the crisis of policing over Black, Indigenous, racialized, and migrant people’s lives. By further equipping law enforcement to terrorize people in their everyday lives and work, *Combating Human Trafficking Act, 2021* is counter to what people living and working in precarity need to be safe. With this legislation, vulnerable communities will only have more to fear from policing: from traumatizing raids of workplaces to excessive surveillance of people working, particularly when they are working with one another or in indoor settings, which is far safer for those who sell or trade sex.

Sex workers are best positioned to observe situations of violence and exploitation within the industry, but the criminalization of sex work and the terrifying experiences of sex work and human trafficking investigations, among other forms of criminalization, only serve to further marginalize sex workers from supports in times of need. Increasing surveillance, criminalization, and violence by police does nothing to end violence, gendered violence, and labour exploitation experienced by people who sell or trade sex. If policymakers are truly concerned about these abuses, they must address structural barriers such as poverty, precarious immigration status, and lack of access to affordable housing and health and social services, support the repeal of sex work offences and immigration regulations that make it more difficult for sex workers and migrants to work safely, and support access to permanent status for migrants so that they are not forced into vulnerable positions where they could be exploited in any industry where human trafficking — that is, forced labour — occurs. The decriminalization of sex

work and the regularization of immigration status would be meaningful steps towards ending labour abuses.

For sex workers, Black, Indigenous, migrant communities, and others, more law enforcement cannot be understood as the solution when they are the cause of harm and violence. There has been an unprecedented wave of support spanning labour, health, and housing movements across North America for a racial and gender justice movement geared toward the “abolition of all carceral systems” (American Public Health Association, 2020). This movement, oriented toward more meaningful forms of safety, has forwarded demands for an immediate and significant divestment from policing, as well as a dramatic decrease in the scale, scope, and powers of policing over our communities — including measure such as the decriminalization of sex work, the decriminalization of drugs and the creation of a safe-supply, the decriminalization of poverty-related offenses, and divorcing law enforcement from mental health, overdose, and all forms of healthcare, as crucial steps on the path toward abolitionist futures (Black Lives Matter, n.d.; Choosing Real Safety, n.d.; Kaba & Ritchie, n.d.). The call includes a concurrent investment in non-carceral forms of security, including decent and affordable housing for all, restorative and transformative justice initiatives, and community-based anti-violence programs geared toward preventing gendered violence and supporting survivors. While all sex workers and all communities require protection from harm, current state-led anti-trafficking legislation cannot and will not deliver this much-needed safety.

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