

# Yukon Status Women Council

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## Background

Yukon Status of Women Council (YSWC) is a territorial non-profit organization based in Whitehorse, Yukon. As an intersectional, decolonial feminist research organization, we occupy a unique position within the gender justice community because we are the only non-governmental organization that has the mandate to work on gender justice issues with all levels of government, conduct research, develop and follow-through with actionable recommendations, and provide a platform for amplifying Yukon women's voices. A participatory approach grounded in the issues and concerns of Yukon women is then translated into systemic and structural change, centring the community's concerns and salient, emergent issues.

As a project-based organization, we facilitate the Supporting Worker's Autonomy Project

Yukon (SWAPY). This project is built to increase options for the wellbeing and safety for

people who trade sex in the Yukon, as well as supporting people who have experienced

sexualized exploitation and trafficking. It is critical to not conflate these two terms, recognizing some sex workers experience exploitation and trafficking, and some survivors of trafficking also do sex work. Our focus is on providing non-directive support from the individual's experience. A large portion of our project's work involves countering damaging narratives about sex work and the harms that are a direct result of conflating sex work and trafficking in policy and law. SWAPY works with a diverse range of community partners to reduce sex work stigmatization and misinformation through conducting research on promising practices; engaging in an iterative process with partners to support increasing their accessibility to sex workers through policy analysis, recommendation, implementation; public education and training; and advocacy.

## Introduction

Sex workers' rights remain largely unaddressed under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The conflation of sex work with human trafficking has led to harmful policies and legislation in Canada and worldwide that criminalizes sex workers, stigmatizes their profession, and violates their basic human rights. This brief seeks to argue that CEDAW has failed to protect sex workers and has instead contributed to the ways in which legislative policy frameworks perpetuate harm against sex workers while being ineffective at addressing the complex issue of human trafficking.

## Recommendations

CEDAW should explicitly distinguish between sex work and trafficking in all relevant guidelines and recommendations to ensure that sex workers' rights are fully protected.

CEDAW should advocate for the full decriminalization of sex work as a necessary first step in improving safety and reducing factors that allow exploitation to thrive. It must acknowledge the ineffectiveness of the End Demand model it currently supports.

CEDAW should explicitly incorporate sex workers' rights under its anti-discrimination protections to ensure that sex workers have access to justice and equal protection under the law.

CEDAW should urge States to ensure full access to healthcare services for sex workers, without stigma or mandatory testing, and provide equitable protections for their sexual and reproductive health rights.

CEDAW should strengthen privacy protections for sex workers, ensuring that they are not subjected to invasive state interventions.

CEDAW should advocate for the inclusion of sex workers in labour protections to ensure their rights and safety in the workplace.

CEDAW should include special provisions for Indigenous sex workers, to recognize and address the systemic factors that contribute to the disproportionate impacts of State violence against Indigenous sex working women through over-surveillance, racial profiling and discrimination.

CEDAW should advocate for an end to all raids, deportations and detentions of immigrant women working in the sex industry. CEDAW should advocate for the end to all policies that restrict migrants from working as sex workers, and support the removal of immigration authorities in anti-trafficking efforts to ensure that migrant sex workers' rights are protected.

#### Summary of Key Issues:

Distinguishing sex work from human trafficking is essential to protect the rights of sex workers.

Criminalization under laws like Canada's Protection of Communities and Exploited Persons Act (PCEPA) and Immigration and Refugee Protection Regulations (IRPR) exacerbate violence, discrimination, and economic harm, particularly for marginalized groups.

CEDAW must explicitly incorporate sex workers' rights into its framework to address systemic discrimination, violence, and exclusion.

#### Analysis of Recommendations

##### Distinguishing Sex Work from Human Trafficking

One of the core issues in international and national policy frameworks, including CEDAW, is the conflation of sex work with human trafficking. This conflation leads to harmful policies that criminalize all aspects of the sex industry, subjecting workers to over-surveillance, arrest, detention, and deportation. By failing to make this distinction, CEDAW perpetuates the narrative that all sex work is inherently exploitative, ignoring the autonomy of those who engage in it as a form of work.

CEDAW's documentation, including General Recommendations, has not adequately addressed the need to separate sex work from trafficking. This has led to a purposeful, systematic misunderstanding of sex workers' experiences, creating policies that fail to address their unique needs while simultaneously perpetuating the stigma and criminalization they face.

##### Impact of Criminalization of Sex Work

The criminalization of sex work under the Protection of Communities and Exploited Persons Act (PCEPA) in Canada has resulted in widespread harm to sex workers. Criminalization disproportionately affects Indigenous, migrant, and racialized women, leading to increased violence, arrests, detentions, and deportations. These policies drive sex workers underground, where exploitation and abuse can more easily thrive. The criminalized nature of sex work results in limited access to health services, legal protection, and social support systems.

Criminalizing sex work increases the risks faced by sex workers rather than reducing harm. Police raids and anti-trafficking initiatives have led to higher rates of detentions and deportations, especially for migrant sex workers, who are treated as trafficking victims regardless of their consent to engage in sex work.

##### Violation of Rights under CEDAW

##### Right to Equal Protection of the Law and Freedom from Discrimination

Sex workers face systemic discrimination in many areas of their lives, including housing, healthcare, and access to justice. The stigma associated with sex work, compounded by legal frameworks like PCEPA, limits their ability to seek protection under the law. In many cases, sex workers are unable to access basic services or report violence without fear of legal and social consequences.

CEDAW's mandate to eliminate discrimination against women must include sex workers, as the discrimination they face is rooted in societal stereotypes about gender roles and sexuality. The failure to protect sex workers' rights under CEDAW reinforces narratives that aim to erode the agency and autonomy of sex workers, and further exacerbates the marginalization and exclusion faced by workers of the sex industry.

## Right to Freedom from Violence

Sex workers can experience many forms of violence, including police and State violence resulting from the criminalization of their work. Criminalization limits sex workers' ability to negotiate safe working conditions or report violence without fear of arrest or deportation<sup>1</sup>. CEDAW acknowledges the need to protect women from violence, but its failure to recognize the specific vulnerabilities of sex workers created and enforced by criminalization undermines their safety and security and ignores the wealth of advocacy and expertise of sex workers have shared of their own needs and experiences.

Criminalizing the purchase of sexual services, as seen in "End-Demand" models, exacerbates the violence that sex workers face by pushing their work into more dangerous, isolated areas. Those best positioned to spot and report sexualized exploitation and human trafficking are criminalized, making them unlikely to report due to social and legal repercussions. Compounded by the conflation of sex work and sexualized exploitation, the End Demand model is ineffective in addressing the roots human trafficking in any meaningful way, while actively causing harm to sex workers.

## Right to Health

Criminalization and stigmatization restricts sex workers' access to healthcare, particularly sexual and reproductive health services. The stigma surrounding sex work often leads healthcare providers to deny treatment or impose mandatory HIV testing, violating sex workers' bodily autonomy and creating further barriers, isolating them from accessing necessary care<sup>2</sup>. Studies have shown that decriminalization improves health outcomes for sex workers, reducing HIV transmission and increasing access to healthcare services.

## Right to Privacy and Freedom from Interference

Sex workers frequently face violations of their right to privacy due to police raids, forced registration, and the weaponizing of their work against them by landlords, partners, and clients. This violence further exacerbates stigma and economic consequences faced by sex workers, such as losing their homes or employment. The criminalization of sex work enables these state-sanctioned violations of privacy, creating an environment where sex workers have little-to-no access to recourse to respond to violence enacted towards them.

## Right to Work and Labour Protections

The criminalization of sex work creates precarious working conditions where sex workers have no access to labour protections, such as occupational health and safety standards. The lack of legal recognition for their work prevents sex workers from forming unions, negotiating fair working conditions, or seeking redress for exploitation. In New Zealand, where sex work has been decriminalized, sex workers have access to the same labor protections as other workers, leading to improved safety and working conditions<sup>2</sup>.

## Discriminatory Policies and Their Impact on Marginalized Groups

### Indigenous Women and Girls

Indigenous sex workers are particularly impacted by the harms of criminalization due to systemic racism, over-policing, and racial profiling. Additionally, Indigenous women are disproportionately targeted by law enforcement and subjected to violence and exploitation. The National Inquiry into Missing and Murdered Indigenous Women and Girls has highlighted the need for urgent action to recognize and address the ways in which our current legislative frameworks are disproportionately impacting Indigenous sex workers, leading to increased experiences of violence and discrimination.

### Migrant Women

Migrant sex workers face increased detentions, arrests, and deportations under anti-trafficking initiatives that conflate sex work with trafficking. Immigration laws that prohibit migrant sex work create opportunities for violence to thrive, as migrant sex workers are less likely to report violence or seek healthcare for fear of deportation. The intersection of immigration and criminal law creates an environment where migrant sex workers are further systematically excluded from protection and support. These infantilizing, racist and xenophobic narratives continue

to fuel ineffective policy and legislation that does not address systemic inequalities experienced by migrant women engaging in sex work.

#### CEDAW and the Path Forward

Full decriminalization of sex work is a crucial human rights issue that aligns with the broader goals of achieving gender equality and eliminating discrimination that is currently missing from CEDAW's analysis and approach. Decriminalization would allow sex workers to operate safely, access healthcare, and report violence without fear of legal consequences. CEDAW must include in their general recommendations that sex workers must be protected under labour laws and other legal frameworks, giving them the same rights as other workers, addressing inequities that are a direct result of the End Demand model and the current legislative frameworks governing sex work in Canada. CEDAW must develop a comprehensive General Recommendation on the rights of sex workers to ensure that their rights to safety, health, privacy, and freedom from violence are explicitly recognized.

#### Conclusion

CEDAW must take a more active role in advocating for the rights of sex workers. By urging Canada and other State parties to repeal criminalization laws and adopt rights-based, non-punitive frameworks informed by sex workers, CEDAW can help dismantle the systems of discrimination and violence that harm sex workers. Full decriminalization of sex work is the first step toward ensuring the safety, dignity, and rights of all women, regardless of their profession.