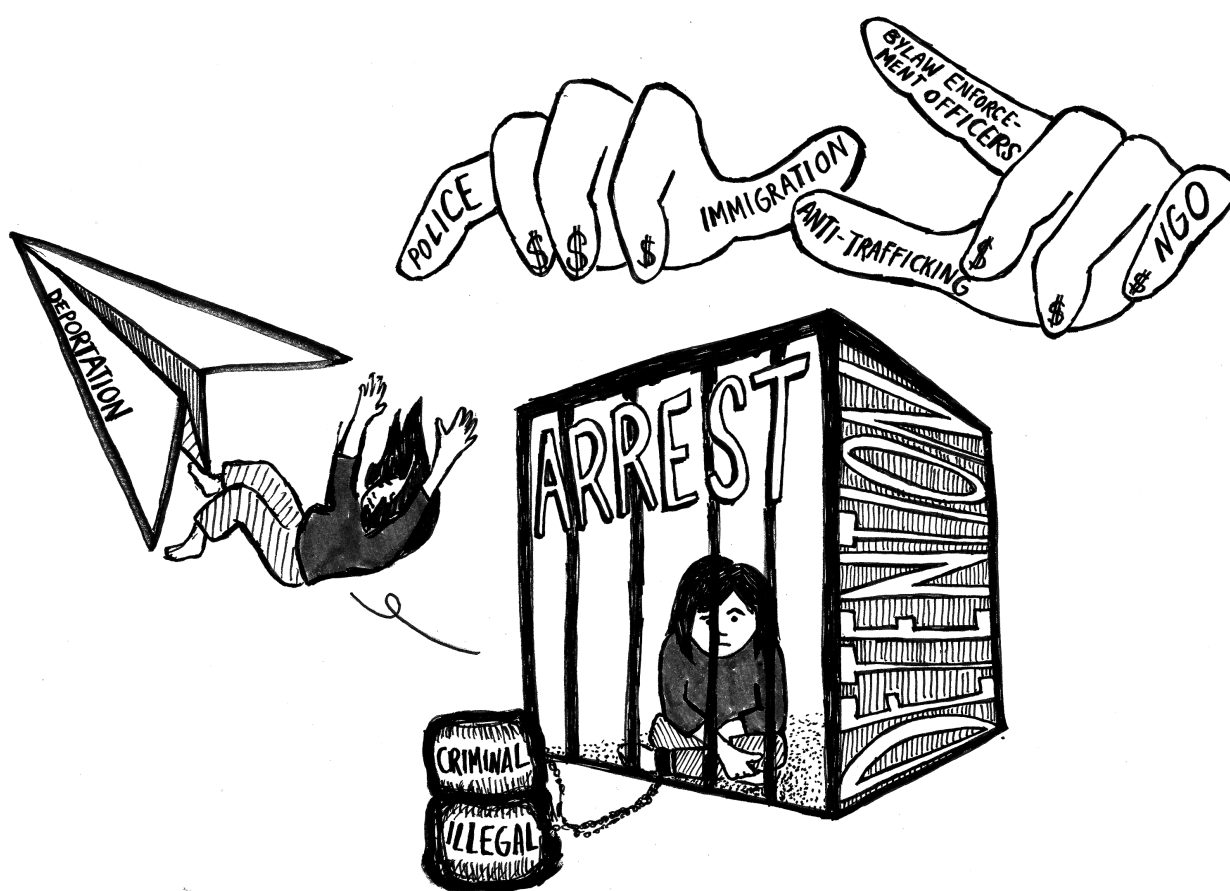


BEHIND THE RESCUE

How Anti-Trafficking Investigations and Policies Harm Migrant Sex Workers



BUTTERFLY ASIAN AND MIGRANT SEX WORKERS SUPPORT NETWORK

Editor and Author: Elene Lam

APRIL 2018

(Revised version on June 2018)

Behind the Rescue:
**How Anti-Trafficking Investigations and Policies
Harm Migrant Sex Workers**

This report is dedicated to the 18 strong and brave migrant sex workers

Editor and Author: Elene Lam
Butterfly (Asian and Migrant Sex Workers Support Network)

Stories Contributors: Angel, Ashley, Bo Bo, Blue, Cookie, Chen Chen, Dorothy, Fanny, Little Fish, Lucy Chan, Lu Lu, Mi, Man, Shan Yin, Stone, Sue, Sun, Yuen

Writing Team: Eshan Rafi, Stephanie Milliken, Silken Chan, Justin Kong, Cookie, Brianna Greaves, Renee Dumarasque, Loretta Mui, Kelly Pflug-Back

Graphic: Elene Lam, Cookie, Loretta Mui, Kelly Lui
Layout: Kelly Lui

Funded by: Lush Fresh Handmade Cosmetic

Publisher: Butterfly Print
Toronto, Canada
April 2018

Butterfly (Asian and Migrant Sex Workers Support Network)
Butterflysw.org / 1-416-906-3098 / cswbutterfly@gmail.com

INTRODUCTION

Butterfly is publishing this report because we witness the everyday reality of how migrant sex workers are harmed, and made vulnerable, as a direct result of anti-trafficking initiatives. These initiatives are presented as necessary rescue and protection for migrant sex workers, but in fact, they encourage anti-migration attitudes, racism, and the criminalization and discrimination of sex work.

Behind the Rescue: How Anti-Trafficking Investigations and Policies Harm Migrant Sex Workers details the far-reaching effects of Canadian anti-trafficking investigations and policies on migrant sex workers, their families, and their communities.

This report consists of 18 stories told by migrant sex workers to Butterfly. They describe human rights violations migrant sex workers have experienced due to their encounters with Canadian law enforcement agencies.

Migrant sex workers, especially Asian sex workers, are most often viewed as being the victims of human trafficking. Thus, whenever we hear about migrant sex work in the news or in government reports, the primary concern is that the women involved are **“trafficked victims:”** they are being controlled and exploited by traffickers and transnational crime rings. This

perspective has been fueled by campaigns led by non-governmental organizations (NGOs), which encourage the public to concern themselves with transnational human trafficking, and to report suspected trafficking cases through crime alert hotlines. Anti-trafficking policy has developed from this conflation of sex work with trafficking, which is informed by racism, xenophobia,

which is informed by racism, xenophobia, and myths of the migrant sex worker.

In the last few years, federal, provincial, and municipal governments have spent a significant amount of money developing and implementing anti-trafficking policies. For example, in 2016, Ontario committed \$72 million over 4 years to combat trafficking, while Public Safety Canada committed \$6 million. Most of this money is allocated to law enforcement agencies, including the Federal Police (RCMP), Canadian Border Services Agency (CBSA), municipal police, and municipal city inspectors. These agencies utilize such resources to develop joint enforcement strategies and to exchange information regarding anti-trafficking investigations. Sections of the Canadian Criminal Code (including the *Protection of Communities and Exploited Persons Act*¹ (PCEPA) and trafficking laws), immigration laws, municipal bylaws and anti-trafficking polices, give significant power and resources to law enforcement agencies. This includes heightened surveillance capabilities, and the search and arrest of migrant sex workers, especially those who are racialized and do not have citizenship.

Trafficking investigations receive a lot of support from the general public because it is believed that law enforcement and NGOs are helping vulnerable people who need to be rescued. Asian migrant sex workers are perceived to be at risk of abuse from their “traffickers,” who are often in fact their colleagues, partners, or friends. In fact, Asian migrant sex workers who are being targeted through these policies are rarely (and based on current data, never) trafficking victims, and become at risk through these anti-trafficking policies which allow them to be exploited, locked up, abused, and violated by law enforcement officers.

Current policies meant to prevent exploitation and forced labour are not effective or empowering - they actually increase risk and vulnerability. These policies take away migrant sex workers’ ability to negotiate for better working conditions and protect themselves and their own community from different kinds of oppression. They compromise migrant sex workers’ safety and infringe upon their human rights and dignity. They further marginalize migrant sex workers by preventing them from reporting experiences of violence or harassment

¹ Department of Justice Canada, “Technical Paper: Bill C-36, An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in *Attorney General of Canada v. Bedford* and to make consequential amendments to other Acts (*Protection of Communities and Exploited Persons Act*),” December 1, 2014 at <http://www.justice.gc.ca/eng/rp-pr/other-autre/protect/index.html>

due to fear of repercussions from law enforcement.

Butterfly is an organization that works closely with migrant sex workers and, unlike the government and NGOs, is able to view the situation from the perspectives of migrant sex workers themselves. What becomes apparent to those witnessing the everyday reality of migrant sex workers is that anti-trafficking investigations are actually anti-sex work, anti-migrant, and racist. Migrant sex workers often experience human rights violations while under the care of investigators, **including arbitrary arrests and detainment, inhuman and degrading treatment, false allegations, and false evidence being used to keep them detained.** Legal representation and support is sometimes withheld from migrant sex workers, and they can be detained for long periods of time (up to three months in some cases), which keeps them isolated from their friends and families, who are generally perceived as involved in trafficking. Some are denied entrance to Canada or even lose their immigration status because they were involved in sex work or suspected of being involved in sex work. In addition to this, migrant sex workers are likely to experience trauma, which leads to intensely negative feelings, varying degrees of post-traumatic stress disorder and thoughts of suicide.

We are producing this report

because we want policymakers, NGOs, and the wider public to understand the realities of anti-trafficking investigations. Butterfly has received numerous complaints from sex workers, especially in regards to the harassment and discrimination they and their friends have experienced while in the custody of trafficking investigators. This report features the testimonies of 18 Asian and migrant sex workers who contacted Butterfly when they were arrested, detained, and/or deported between May 2015 and August 2016 (16 months) in Canada (including Ontario, Vancouver, Saskatchewan, Winnipeg, Alberta, and Manitoba). Three of these individuals had working permits under sponsorship, one had a student visa and working permit, and eight had valid visitor visas. The other six had lost their official permission to be in Canada, through loss of refugee status or sponsorship. Fifteen of the 18 have now been deported, and many experienced violations of their basic human rights throughout the process of investigation, arrest, and detention.

Butterfly provided these women with legal representation, advocacy for their case, assistance with getting bail, and emotional support. Representatives from Butterfly visited these women in detention centres, connected them with their families, and even helped them to pack and move. Butterfly also provided these women with counselling services and other forms of support once they returned home.

Butterfly’s staff and volunteers helped the women to write and translate their stories from August to September of 2016. Part of Blue’s and Mi’s stories were published in the “Sex Workers Speak Out” series by the Canadian Alliance of Sex Workers Law Reform in *Ricochet* in 2016². The stories and experiences of these 18 migrant sex workers are extremely valuable. They expose the various ways in which they have suffered as a result of the implementation of anti-trafficking laws and policies, as well as the criminalization and discrimination of sex workers more broadly.

We would like to express our deepest thanks to the 18 women who shared their stories with us so that we

may assist the greater public in understanding the injustices they experienced. We would also like to thank the volunteers who helped produce this report so that the voices of migrant sex workers could be heard.

It is incredibly important for us to have allies in our goal to support migrant and sex workers’ rights. After listening to migrant sex workers’ stories and voices, we hope you will join us as we continue to organize the fight for justice for migrant sex workers. Our alliances strive to put an end to the harm that anti-trafficking policies and enforcement cause so that migrant sex workers may live with power, safety, justice, and dignity.



**RIGHTS NOT
RESCUE:
Stop the Harm of
Anti-Trafficking
Policies**

² Canadian Alliance of Sex Work Law Reform (2016, September 23), Migrant Sex Workers Live Under Constant Police Threat. *Ricochet*. Retrieved from <https://ricochet.media/en/1421/migrant-sex-workers-live-under-constant-police-threat>

SUN'S STORY

Police Officer: "Are you under the control of anyone? Is anyone forcing you to do this? Who is your boss?"

Sun, "No, I'm doing this out of my own volition, I have no boss."

Police Officer: "How long have you been here? What is your immigration status?"

Sun had lived in Canada for five years, and built a stable and meaningful life for herself. She had many friends, a routine to her days, and believed in the importance of her work.

An indoor sex worker, Sun was also an active member of Butterfly, often offering advice and support for newly arrived migrants and migrant sex workers. She formed trusting and reciprocal relationships with her work colleagues, as well as close friendships with some of her clients. As someone who cared deeply for those around her, she often cooked food for her friends and neighbours. Once, when a client friend of hers became very sick and had to be hospitalized, she took it upon herself to visit him every day and bring him meals. Sun considered her work as a sex worker to be a profession, and as care and service work.

However, on the night before Christmas Eve of 2014, all of this changed. Sun and her colleague were at their home when they heard the doorbell ring. A few male police officers rushed into their apartment without warning; they grabbed Sun and her colleague and began to interrogate them. One of the officers spoke their language and told them, "Don't be scared. Are you under

the control of anyone? Is anyone forcing you to do this? Who is your boss?" Sun, who was absolutely terrified, responded; "No, I am doing this out of my own volition, I have no boss." The officer then proceeded to ask her a series of questions including, "How long have you been here?" and, "What is your immigration status?" He then requested that she show him her identification. After an extensive period of questioning that lasted for over an hour, four additional men came into their apartment. Sun had no idea who they were, as they were in plainclothes. Only later did she realize that these were immigration officers. Throughout this process, Sun sent messages to her friends and to Butterfly, seeking their help, and expressing her fear and concern.

The immigration officers brought Sun to the immigration department (CBSA) and she was once again put through an interrogation process, after which she was taken to a holding cell. Knowing that working in Canada without documents was contrary to convention, Sun requested that she be allowed to return to her home country in Asia. She couldn't understand the legal documents that were presented to her, and she could not get a hold of a lawyer because it was the beginning of the Christmas holiday. When Butterfly attempted to get in touch with the immigration officers to follow her case, they were not able to, also because of the holiday. Sun was notified that she would have to go for detention review in two days, and she frantically sought out someone who could represent her in court.

Surprisingly and without warning, Sun was informed the next day that she would in fact be going to court that same day - which was a day prior to the date she had been originally notified of. Unable to locate someone to represent her under these changing circumstances, Sun found that she had no one to represent her at all. She again told the court that she would accept leaving and asked that she be allowed to return to her home country in Asia. The court did not consider her request and rescheduled the court date for a week later. As the court case dragged on, Sun waited. Meanwhile, Butterfly was still unable to get in touch with anyone as the holiday break continued and the case had no assigned officer as of yet.

By the time Sun actually had her detention review, she desperately wanted to leave; she only requested that she be allowed to pick up her belongings as they meant a lot to her. The court refused her request for bail, and instead, continued to detain her without any notice of when she would be released. Sun found this waiting period excruciating: "Even if you arrest a criminal and put them in jail they know how long they are being held for. I was held indefinitely." While Sun

had worked hard to build a life for herself in Canada, and considered it her home, in the end she wasn't even allowed to collect her belongings.

Sun was detained for *more than 30 days* and then deported.

After a month of detainment, Sun returned to her country of origin, where she suffered bouts of insomnia and often considered suicide. She was traumatized by having her life in Canada abruptly come to an end.

Butterfly continues to support Sun after her return to her country of origin.

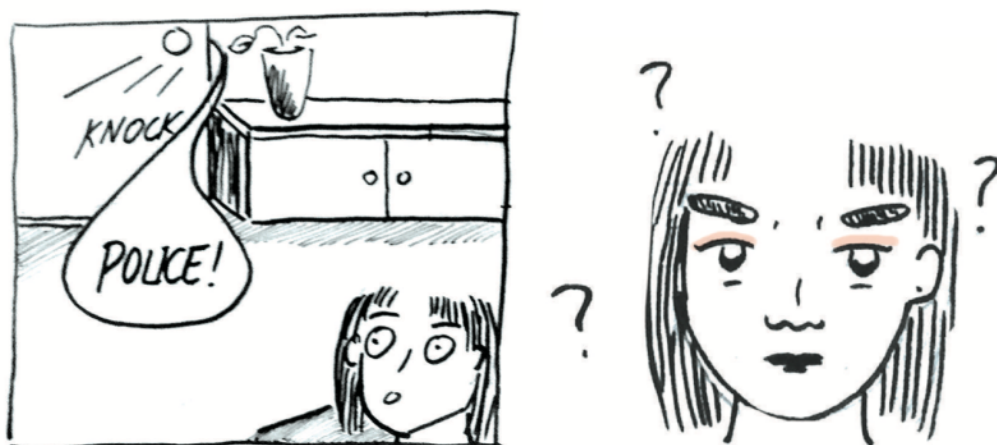
**ANTI-TRAFFICKING
INVESTIGATION
TURNED INTO
ANTI-MIGRANT
INVESTIGATION**



Exhibition in Art Gallery of Ontario: The Viminal Space in April 2016

BLUE'S STORY

Toronto, ON³



Blue came to Ontario from Asia so she could get a Canadian university education. She and her family knew it was an expensive choice at \$45,000 a year, but it was also important. So together they made that first year happen, despite Blue's heavy course load and challenges in finding paid work in her new country so she could cover her costs. She was an engineering student and also needed to focus any spare time on gaining volunteer and intern experience related to her studies.

When a financial crisis hit Asia, Blue's family could no longer help support her. Assessing her options, Blue started work in a massage parlour, where she could have a flexible schedule, meet her financial needs, and still make time for intern opportunities. In 2015 when police raided the massage parlour where Blue worked, things took a major turn for the worse.

³ These stories were originally published in September 2016 as part of 10-part series of Sex Work Stories published by Canadian Alliance for Sex Work Law Reform on Ricochet <http://ricochet.media/en/1404/whats-happened-since-the-conservatives-new-sex-work-laws>

Sex work after Harper

For two years, sex workers have faced tough laws, implemented by the Harper Conservatives in defiance of a Supreme Court directive not to impose dangerous conditions on prostitution. The new laws criminalize those who purchase sex (clients), those who communicate in a public place in order to sell sex (sex workers or third parties), those who carry an advertisement for sexual services (e.g., newspaper, website), and those who gain material benefit from sex work (e.g., security, drivers, receptionists, agency owners). Justin Trudeau's Liberal government has yet to address the unconstitutional nature of the legislation.

Like other businesses, Canadian massage parlours operate under various regulations and laws, including many that control or prevent the sale of sexual services. Not all massage parlours offer sexual services, but any that are suspected of doing so run a constant risk of being targeted in a police raid, like the one that Blue experienced.

On that awful day, police abruptly opened the door of Blue's service room and found her cleaning up. She was asked if she was being trafficked or controlled, and told by police that they had been carrying out an anti-trafficking investigation. She assured them she wasn't being trafficked. That didn't stop police from ordering her not to move while they searched the building. Blue's boss asked to see a search warrant and challenged police to show one or stop the search. But the police kept searching anyway. In the end, they found no evidence of illegal activity.

Blue couldn't leave that little room for almost two hours. She was then asked for her immigration documents. She showed police her work permit, confirming her legal status. Unsatisfied, the police called the Canada Border Services Agency. While waiting for officials to arrive, three police officers continued to interrogate Blue. She felt cornered and frightened.

Blue left without ever knowing what law, if any, she had broken.

They asked her many questions about why she had come to Canada and why she worked in a massage parlour. Overwhelmed and insulted, Blue eventually started to cry. She repeated to the officers that she wasn't doing anything illegal. When the border agency officials arrived, they continued to interrogate Blue and would not allow her to make a telephone call.

A very long two hours later, the police ordered Blue to leave the massage parlour immediately and warned her that if she returned to work there, she would be arrested and deported. Blue left without ever knowing what law, if any, she had broken.

The police raid scared Blue so much about ever having to deal with law enforcement again that rather than return to her job at the massage parlour, she decided instead to become an indoor sex worker.

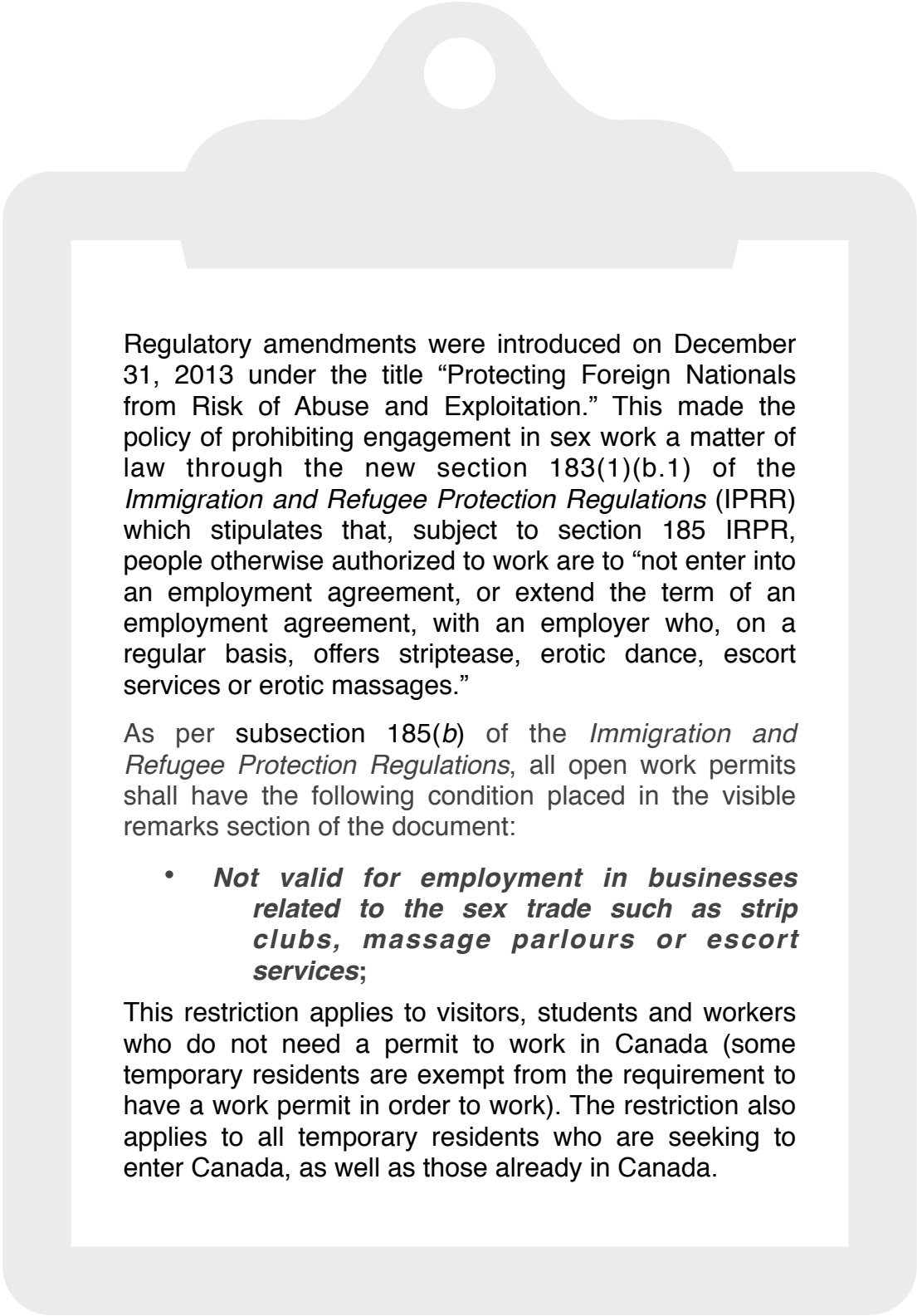
She would have preferred to continue at the massage parlour, where she felt like she had more control, more supports, more agency to choose who she provided services to, and more ability to negotiate with clients. She knew that her new job involved providing "full service" as opposed to the hand jobs she occasionally gave to some of her customers after a massage at the parlour. Blue could see that in her new environment she would have much less bargaining power. Her new working environment has been much more stressful for her.

She no longer feels like she can count on the police.

The police raid increased Blue's visibility to police and has put her at greater risk of being charged with a crime and deported. Her working permit restricts her from doing any sex-work-related job. One of her friends was arrested after the border agency caught her working in a massage parlour.

Given the added risk that the raid and unwanted police attention has placed on Blue's immigration status, she no longer feels like she can count on the police should she ever need to report a crime herself. So, when Blue was robbed by a client recently, she had no place to turn. She was afraid that by calling police, she risked deportation due to breaching the conditions of her working permit. She never made the call.

She also fears that were she ever to end up with a criminal record for something related to sex work, authorities might take her child away and order her deportation. And so Blue never calls, and the workplace violence continues.



Regulatory amendments were introduced on December 31, 2013 under the title “Protecting Foreign Nationals from Risk of Abuse and Exploitation.” This made the policy of prohibiting engagement in sex work a matter of law through the new section 183(1)(b.1) of the *Immigration and Refugee Protection Regulations* (IPRR) which stipulates that, subject to section 185 IRPR, people otherwise authorized to work are to “not enter into an employment agreement, or extend the term of an employment agreement, with an employer who, on a regular basis, offers striptease, erotic dance, escort services or erotic massages.”

As per subsection 185(b) of the *Immigration and Refugee Protection Regulations*, all open work permits shall have the following condition placed in the visible remarks section of the document:

- ***Not valid for employment in businesses related to the sex trade such as strip clubs, massage parlours or escort services;***

This restriction applies to visitors, students and workers who do not need a permit to work in Canada (some temporary residents are exempt from the requirement to have a work permit in order to work). The restriction also applies to all temporary residents who are seeking to enter Canada, as well as those already in Canada.

MI'S STORY

Canada (since deported to Asia)⁴



Mi came to Canada from Asia in 2015. She was arrested by the RCMP in mid-2016 because they found a warrant issued in her name from the Canadian Border Services Agency, who often work with the police to double up efforts on deporting migrant sex workers. The RCMP also seized \$10,000 CAD from Mi, including all of her personal belongings and communication devices.

The officers who first approached Mi identified themselves as a team that helps victims and invited her to talk with them – she did not realize they were also police officers. She gave a statement that was later used to charge her for working illegally in Canada. It was only after Mi spoke with a lawyer that she was informed of her right to silence.

“They did not allow my friends to be a bondsperson to get me out.”

⁴ This story was published in *Ricochet* on September 23, 2016, “Sex Workers Speak Out: Migrant Sex Workers Live Under Constant Police Threat,” Canadian Alliance for Sex Work Law Reform. <https://ricochet.media/en/1421/migrant-sex-workers-live-under-constant-police-threat>

The police asked Mi many questions about whether she was a victim and whether there were others working with her. Despite the fact that Mi did not identify as a victim, she was held in detention while police “investigated.” “The officer asked me if I was being controlled, being forced or if anyone had assisted me to come and work in Canada,” said Mi. “I told the officer that I did it voluntarily. No one received any money from me. I am over 40 years old, and I know what I am doing. No one forced me. They also kept asking me if I was working with others, and they asked me again and again who helped to advertise. They found a money transfer record, and I explained that there was a person who helped me do money exchange. However, they insisted this person was not helping me, and they kept saying this person is a trafficker.”

Mi told police she had been assaulted at a hotel by a stranger in the course of her work, but they took little interest and did not ask follow-up questions. Typically people identified as illegal workers are held for shorter periods of time than people identified as trafficking victims, and the treatment Mi received as a result made her feel very frustrated, sad and scared. She was detained and locked with chains on her wrists, waist and legs. She felt very humiliated. She understood that she had worked illegally in Canada, but the police were also telling her she was being detained because she was a victim.

Communication was not facilitated for Mi during her detainment. No interpretation was provided, and because her phone was confiscated, she did not have the phone numbers of her friends. To be able to call Butterfly — a rights group based in Ontario for migrant and Asian sex workers — for help, she offered candy to others in exchange for instructions on how to make a collect call. Being in detention was the worst thing Mi had ever experienced.

“I was locked up in a prison. I was locked up almost two months. I might still be in prison if I was not helped by Butterfly,” said Mi.

“They took away my phone and didn't allow me to contact my friends and family. No one knew what had happened to me as they did not allow me to access the phonebook,” said Mi. “The judge (of detention review) did not allow me to leave, as they said they had to protect me. They thought my friends and clients were bad people and dangerous for me. They did not allow my friends to be a bondsperson to get me out of those chains. They also would not release me to my friends.”

Mi later found out that a picture of her and her friend was used by police to visit her friend.

"They said I was not allowed to get out because I did not have place to stay. But I told them that I would have a place to stay. All of my friends took care of me very well. They did not take my money. Some of them even gave me money sometimes."

Mi was released back to her hometown with the assistance of Butterfly. But she was still very angry and frustrated at the treatment she had received, particularly because the police refused to return her money and personal belongings.

Mi later found out that a picture of her and her friend was used by police to visit her friend and accuse her of being a trafficker herself. Her friend was detained for 10 days. Neither Mi nor her friend were ever charged criminally, despite being held in detention.

The police have since informed Butterfly that they are working on an application to be able to seize the \$10,000 they confiscated from Mi, because she had worked illegally in Canada.

"I have asked them when can I get back my money, but they do not respond to me," said Mi. "During the interview, they said they will help me to get it back. However, they lied. They said that to make me talk to them. I did not know they were police because they said they were special officers who protect victims. They refuse to give the money and phone back to me, even after I have left Canada for three months now. Some of the money was what I brought to Canada. I still owe the lawyer fee and I cannot pay back the lawyer as I cannot get back the money."

Mi's phone and other communication devices are still being held by police as part of a supposed criminal investigation.



Mi is still not able to get her money back (\$10,000). The police told Butterfly that the money was seized because Mi worked illegally in Canada.

On April 2, 2015, media sources reported that the Royal Canadian Mounted Police (RCMP) had disrupted a “Canada-wide prostitution ring,” and that 500 Asian women were alleged to be victims of human smuggling and sexual exploitation. However, these allegations are not evidence-based and the RCMP could not provide further information.

“Raid and Rescue,” such as Operation Northern Spotlight, is being used to “identify” and “rescue” victims. Anti-trafficking initiatives are being used to surveil and racially profile migrant sex workers, leading to their arrest, detainment and/or deportation.

Operation Northern Spotlight discourages workers in the sex industry from reporting actual cases of human trafficking to law enforcement, frustrating the ultimate objective of such campaigns. This also diverts much-needed resources to anti-trafficking investigations rather than into other forms of services and supports needed by sex workers.

FANNY'S STORY



In 2016, Fanny was working as a sex worker at a hotel. One day, while she was with a client, she heard a knock at the door. Upon opening the door, she and the other workers from the rooms beside hers, found themselves face to face with two police officers.

Fanny knew they were police officers because of their uniforms and the guns they carried. Nothing out of the usual had been happening prior to their arrival, and Fanny was given no reason for their intrusion. The officers said little to her. At first they stood at the door and spoke to the client. They addressed Fanny to ask her who had helped her with booking her hotel room and requested to see her passport. They also asked whether the workers had a boss, or if anyone was coercing them to work. Fanny's English was limited, and with the assistance of a colleague, she did her best to answer their questions - she told the officers that her friend had helped her book the hotel room, and that nobody was coercing them. An officer showed her a photo of a woman on his phone, asking if Fanny was that woman. Surprised, she responded, "No, I am not that young!".

While they waited, a man who appeared to be a more senior police officer arrived. He told the workers that they would be going to the police station,

but gave no further information. Fanny thought that she was in trouble for engaging in sex work – but then she noticed that only she and some of the other Asian workers were being taken away, while white sex workers stood by and watched. Only the Asian workers were under investigation.

Handcuffed, Fanny was taken to the police station. She was asked if she wanted a Cantonese translator, but it turned out to be a phone translator. She was asked very few questions from the police. As she already had access to a lawyer, Fanny did not utilize the legal supports they provided. She returned to her cell to await immigration enforcement, and after a few hours, along with the other workers, she was transferred to an immigration detention facility. Once there, she was photographed and had her fingerprints taken.

Immigration enforcement dealt with Fanny very aggressively. They accused her of being uncooperative when she didn't know how to state her boyfriend's address in English. Later on, she was finally allowed her to call her boyfriend, who gave the police the information himself. During this time, the officers did not ask Fanny any detailed questions about whether she was doing sex work in Canada. They only explained that she had been arrested for working in Canada without a work permit.

After being detained for two days at the detention facility, Fanny appeared in court. The judge told the workers that they had been arrested for working in Canada without permission, and denied bail. Fanny had paid \$2000 to a lawyer, whom her boyfriend had helped her find, but she had been unable to communicate with him prior to appearing in court. Fanny understood through the court translator that the lawyer advised the judge that she had been at the hotel visiting a friend. The lawyer did not ask for any special requests or conditions. There was a second court hearing five days later, but her application for bail was rejected once more.

"It seemed so hard to get bail, particularly with workers from our profession," Fanny explained. "Like the women inside immigration detention – some of them were detained for years. We thought there wasn't much point in getting another lawyer." Other women inside detention shared their stories and experiences with Fanny. She met a woman who had been detained for over three months, and who continued to wait for release while Butterfly helped her to negotiate with the Canadian Border Services Agency. At this time, Fanny reached out to Butterfly for assistance, and finally, she was able

to buy a plane ticket and fly back to her home country. Fanny was detained for eight days.

Fanny feels certain that she and the other women who were arrested were targeted from the beginning. "It was very clear that [the police] were only looking for us as non-white workers. There were other women working in the same hotel who were white, and the police didn't bother them or even talk to them at all." While the anti-trafficking investigation was meant to support and protect sex workers, it appeared that the law enforcement agents were more interested in arresting and deporting migrant women.



The officer decided that Fanny was not a 'victim' but an 'illegal migrant'

Some valuables, such as watches, bracelets and rings, as well as her identity document, were kept by the officers during Fanny's detention at the immigration centre. Following the event, she was unable to get these back - all her valuables were reported "lost" and with "no record found".

ASHLEY'S STORY

The officer spoke in English



*She didn't fully understand
what he was saying*

For over a decade, Ashley faced abuse from her partner while living in her home country in Asia. She decided to move to Canada out of a desire to make a better, safer life for her son and herself. For Ashley, coming to Canada offered a path out of her abusive relationship and towards recovery from the trauma she had endured.

Ashley prepared for the move by visiting a friend of hers in Canada on a tourist visa, to gain a better understanding of what it would be like to live here. What she saw was an environment where her 15-year-old son could thrive and have a good education and a bright future. The cost of living would be high, and school fees for international students were expensive. She realized that as a single mother without the resources and professional background needed to secure citizenship, she would have to find her own way. Ashley's friend in Canada was a sex worker. During her stay, Ashley asked her friend to help her arrange some work so that she could establish herself locally and begin earning some money before leaving. She started seeing clients who paid her to meet with them.

Ashley found it difficult to navigate her new environment, and rarely ventured out on her own. One day, a police officer came to the hotel where she worked. He told Ashley that the hotel was under investigation as part of an anti-trafficking operation, due to suspicions that there was a girl in the hotel who was there under coercion. He asked Ashley several times whether she was being coerced, and whether anyone had taken money from her.

The officer went on his way after Ashley told him that she was travelling in Canada, and wasn't the woman he was looking for. He returned shortly after, and informed her that she had to leave the hotel immediately. This concerned and frightened Ashley – she had nowhere else to go, and she didn't want to get her friend in trouble by calling her for help. She began to cry out of helplessness and not knowing how she would be able to find another place to stay as she didn't speak English. She had no idea what her rights were.

After a while, the police officer brought Ashley to another hotel where she could stay. "At that moment, I thought he was a kind and nice person," she recalls. He kept chatting with her and she told him more about herself. What she didn't know then was that he was setting a trap for her.

As soon as she returned to her room, immigration officers from the Canadian Border Services Agency (CBSA) arrested her and charged her with working illegally in Canada. She was brought to a detention centre, where she was locked up and questioned. Despite paying \$2000 for a lawyer, she was never even given the chance to see or speak to him before the detention review in court. Her tourist visa was still valid, yet her application for bail was denied. Ashley was detained for over five weeks.

Being kept in detainment was a nightmare. Because of the language barrier, she wasn't able to talk to people around her or communicate with officers. She wasn't allowed to make any noise or even watch TV. Other inmates pushed her around, and would remove food from her plate. Throughout it all, Ashley had no contact with her son back home. At the end of the five-week detainment, she was handcuffed and brought to the airport. She was held in a room there, and was eventually escorted by security onto a waiting plane. Her ordeal had ended in deportation.

“11 massage workers face deportation: While it was run by the Human Trafficking Section, no human trafficking was found. Instead, they inspected 20 places and laid 11 bylaw fines.” (Ottawa Sun, May 11, 2015)

COOKIE'S STORY



Exhibition in Whippersnapper Gallery: Butterfly Voices, 2016

"In January 2016, I received a departure order from the Canada Border Services Agency [CBSA]. The officer inquired as to whether or not I had been seen by a psychiatrist or a social worker within the last two months. He then proceeded to ask if I had taken any psychiatric medication. I told him no. Despite this, the officer thought that I was attempting to escape the investigative process, so he decided to arrest me to await deportation in the future.

I immediately requested translation services, and contacted my lawyer and friends. The officer denied my request, placed me in handcuffs, and brought me to an empty room. I was incredibly afraid and I began to cry. CBSA arrested me and sent me to jail, and this entire process led me to have flashbacks of traumatic experiences I had experienced twenty years ago. In total, I was held in jail for thirty-five days, and I was strip searched five times. Throughout this entire process, I felt less of a person, and lost a part of my humanity.

As I recall, the first night was incredibly cold since I only had my vest while sleeping on a board. I thought to myself, "I have no clothes and I have no food, what did I do wrong?" For a full week, I was not allowed to shower or change my clothes. Furthermore, the officers were afraid that I would kill myself, so they sent me to solitary confinement where I was alone for over twenty hours a day. I felt incredibly powerless; they treated me as if I had committed a serious offence."

NIKI & LUCY'S STORY



Niki became homeless after she ran away from her abusive partner. Her friend Lucy took care of her and let her stay at her apartment, where they both also worked. One day, while she was working, Niki was robbed and assaulted by a perpetrator. Lucy and Niki hesitated to call the police because they were worried that the police would not help them. However, their neighbour had heard Niki screaming and already called the police because she was concerned that somebody was being trafficked. A policeman arrived, told them they had to stay inside the apartment, and called the Canada Border Services Agency (CBSA). Niki and Lucy were arrested. Niki was arrested because she had lost her immigration status when her application for refugee status was rejected, and she was not allowed to work in Canada. Lucy was arrested because she was suspected of trafficking Niki since she advertised for Niki and had helped her transfer money to her home country. In the end, both of them were deported.

EXTRACTS FROM STORIES OF OTHER MIGRANT SEX WORKERS

"I have written a letter to my son, but I cannot give it to him. Please give it to him after I die. I really cannot survive here; it is so horrible. No one can talk to me. I don't know how long I need to stay here. I believe I will die here." - Chen Chen

"I am a refugee and I cannot work in massage parlours anymore because the police and city bylaw come very often." - Lulu

"I was deported after being detained for 3 weeks. After I was arrested, they kept asking me if I was controlled by my boyfriend. I told them, of course not, he is just a young student, he has helped me a lot and given me money. I am so guilty. He is not allowed to stay in Canada either. They asked him to leave Canada voluntarily, otherwise, they would arrest him for pimping me." - Shan Yin

"They (the robbers) treated us like a money machine. We were robbed 4 times in one week. All the girls were afraid and some girls were injured. They came with weapons and they had a gun. We could not call the police, otherwise, we would have had more trouble. I told the police about this while I was detained, but they did not care. They just wanted to arrest us." - Dorothy

"My friend was deported. I was lucky that I had just gotten status when the police officer came. However, they issued a body rub ticket to me. I paid \$1000 for a lawyer because I didn't know if I would have problems with the ticket. I finally paid a \$50 fine. I am still afraid everyday because I don't know when they will be back and if I will be in trouble again." - Stone

"I was taken to their office. I am not sure if it is police or immigration office even though I have married with sponsorship. I have my legal paper (work permit). They do not allowed me to leave, They asked me to call my husband to come. My husband did not know I did it (sex work) but the officers told him about that. They also questioned him why he allowed me to do so. They should not do this. They destroyed me. They destroy my family." - Little Fish

Victimization Created by Anti-Trafficking Investigations: *Anti-Trafficking as Anti-Sex Work & Anti-Migration Enforcement*

Repression from law enforcement is a primary concern for many sex workers, especially those who are racialized and/or have precarious or no citizenship status. **Migrant sex workers in particular are impacted by the intersection of laws that discriminate against them, which lead to being over-policed, arrested, criminally charged and fined, and loss of immigration status and deportation. These laws include immigration regulations, criminal offences, and municipal regulations that directly target migrants, sex workers and sex work. Migrant sex workers may face immigration consequences arising from criminal and municipal investigations, even when they are not charged with a criminal or municipal offence.**

In December 2013, the Supreme Court of Canada's decision in *Canada (Attorney General) v Bedford*⁵ affirmed that criminal offences related to sex

work violated sex workers' rights to security of the person under Section 7 of the *Canadian Charter*. However, the Conservative government introduced new offences (PCEPA) in 2014 and continues to criminalize sex work as well as clients and third parties. Trafficking laws are also often used against people who work in the sex industry due to the conflation of sex work and trafficking. Since clients and third parties of sex workers themselves are criminalized by sex work and trafficking laws, the implementation of collaboration and safety measures are often against the law, resulting in criminal investigations.

Migrant sex workers without work permits (such as those without status and visitors) are not allowed to work legally in Canada due to racist ideas embedded in immigration policies. 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

⁵ *Canada (Attorney General) v. Bedford*, 2013 SCC 72, [2013] 3 S.C.R. 1101

to prevent trafficking. 185(b) of *Immigration and Refugee Protection Regulations* states that all open work permits shall have the following condition placed in the visible remarks section of the document:

Not valid for employment in businesses related to the sex trade such as strip clubs, massage parlours or escort services;

In principle, based on Canadian laws, the municipal bylaws cannot directly prohibit the sale of sexual services. However, municipal bylaws are legally allowed to regulate businesses, and these bylaws are often used to control, regulate or shut down establishments that may offer sexual or erotic services, such as massage parlours, body rub parlours and escort agencies. Those who violate criminal, immigration and municipal laws related to sexual services may become inadmissible – meaning that they are not able to stay in Canada and will be asked to leave or deported. Instead of protecting migrant women, PCEPA, IRPA and municipal bylaws are a punitive law enforcement measure used to prosecute them.

The National Action Plan to Combat Human Trafficking is driven by ideology and myths, not evidence. Claims that significant numbers of migrants are being trafficked internally into situations of sexual exploitation are not supported by data. For example, anti-trafficking

investigations resulted in racial profiling of Asian women with non-Western accents working in massage parlours and indoors, even when they had immigrated legally and were permanent residents or citizens. It has become common practice for police officers to enter sex work establishments with the Canada Border Services Agency (CBSA), under the guise of anti-trafficking mandates, leading to the deportation of sex workers who did not identify as victims of trafficking. Similarly, if the police cannot use criminal law against sex workers, they will often refer them to the CBSA.

“Don’t be scared. Are you under the control of anyone? Is anyone forcing you to do this? Who is your boss?”

Sun, who was absolutely terrified, responded: “No, I am doing this out of my own volition, I have no boss.” The officer then proceeded to ask her a series of questions including, “How long have you been here?” and, “What is your immigration status?”

– Sun’s Story

From hearing the stories of migrant sex workers, it is easy to see how legal systems and law enforcement become the tools of oppression. Anti-trafficking campaigns and investigations focus on racialized communities, and portray sexual exploitation as a product of “foreign populations.” The rhetoric of protecting vulnerable women is used as a guise for racial profiling, with law enforcement and border officials using ethnicity and country of origin as a factor in determining whether or not someone should be suspected as a trafficker or trafficking victim.

Anti-trafficking investigations generally include increased surveillance of migrant and racialized sex workers. The surveillance of sex workers' online movements means that their friends and social networks may also become suspected traffickers, and activities such as money transfers or using a friend's credit card to book a hotel may be labeled as organized crime. One woman was detained on an accusation of being a trafficker after police searched her phone and found a photo she had taken with her friend, another Asian woman, who they suspected of being a trafficking victim. Another woman who contacted Butterfly was reported to authorities by someone who knew that she was a sex worker saw her playing with a child, and assumed that she was kidnapping the child. The racist stereotypes and moral panic surrounding human trafficking is deeply

ingrained in society, and can result in further harm and isolation for migrant sex workers.

The purpose of anti-trafficking policies is to protect victims from human rights violations, from cruel and degrading treatment, and to aid the achievement of freedom and liberty. There are many stories about victims of debt bondage who are unable to leave or contact others for help, and who lose their liberty, suffer physical abuse and torture, and are subject to degrading treatment. This is indeed what these 18 Asian migrant sex workers reported that they had experienced. However, these women experienced these injustices not because they were trafficking victims, but because they were victims of anti-trafficking law enforcement agencies.

Tactics used by police and immigration officers in anti-trafficking investigations often involved coercion and intimidation. Women were arrested without evidence that they have violated any criminal or immigration laws. Police then used threats, false promises of release, and the fabrication of evidence in order to coerce women into admitting to working illegally in Canada. In order to extract information from migrant sex workers, police and immigration officers often violated their right to silence, such as deceiving women into thinking that they can go free if they disclose information, or denying access to a lawyer who can discuss rights with them:

“He (the police officer) told me that I am not illegal to work as a sex worker. He said I could go if I admitted I did sex work in Canada, otherwise, I am not allowed to leave. One hour later, two immigration officers (CBSA) arrested me because I worked illegally in Canada.”

- Bo Bo

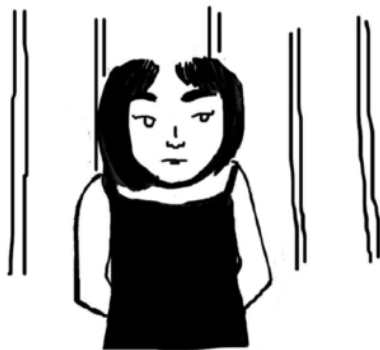
“The police officer took my passport and told me that I was alright, he just needed to verify my passport. I would have no problem if my passport was legitimate. However, he was lying. He took my passport and handed me over to immigration officers.”

- Angel

Investigations which were presented as “rescue missions” resulted in negative outcomes for migrant sex workers; while being labeled as victims, they were also treated as criminals and illegal migrants. Migrant sex workers routinely had their human rights violated during the process of arrest and detention. Such violations included physical and sexual assault, repeated strip searches, being denied access to a lawyer or translator, and police failing to inform them of their rights or the reason they were detained. **Following is a summary of human rights violations suffered by migrant sex workers:**

a) Breaching the rights of liberty

All of the women wanted their freedom back and to be released from detention when they called Butterfly, which they did after being detained for a period of time ranging from a few days to a few months. Only two of them were able to be released. The majority of them were rejected bail during detention review. Some of them were detained in order to “protect” them from traffickers (friends or clients).



“The judge (of detention review) did not allow me to leave, as they said they had to protect me. They thought my friends and clients were bad people and dangerous for me. They did not allow my friend to be a bondsperson to get me out of those chains. They also would not release me to my friends.”

- Mi

“I could not get bail because I could not tell the judge the address of my boyfriend in English and I could not name the restaurant we often went to. It was ridiculous. I know the way to get there but I could not tell him the address because I don't speak very much English.”

- Sue



b) Degrading, cruel, and inhumane treatment

None of the migrant sex workers were criminally charged in the end, even though they went through criminal investigations. They were all detained for breaking immigration laws – in police stations, immigration centres, and prisons. The women reported that they experienced violence and cruel and inhumane treatment during the process of arrest and detainment. For example, some were not only handcuffed, but also locked up in chains in public, including the wrists and legs, which they found insulting, degrading, and dehumanizing.

“I was locked by chains and weights, on my wrists and legs... I felt like I was being treated as a murder suspect. They did not allow me to make a phone call or contact other people.”

- Mi

“The first night was incredibly cold since I only had my vest while sleeping on a board. I thought to myself, “I have no clothes and I have no food, what did I do wrong? For a full week, I was not allowed to shower or change my clothes.”

- Cookie

The police also punished the women who challenged or confronted them about their arrest. One woman was not allowed to sleep; the police woke her up every half hour. The women also felt they were sexually assaulted when they were strip searched, and one was strip searched three times in a week. Another woman was strip searched five times during detention since she had to be strip searched following each time she met the lawyers.

“I was held in jail for 35 days, and I was strip searched five times. Throughout this entire process, I felt like less of a person, and I lost a part of my humanity.”

- Cookie

Their basic human rights were also violated. One woman reported that she was not allowed to contact others, because she was suspected of being a victim of trafficking. Her phone was seized, and she was not allowed access to the phone numbers she needed to make phone calls. Their friends and families were suspected of being traffickers, and were questioned or even detained. It was also difficult for some women to make phone calls, either because they had to pay, or because

they were unable to understand the English instructions for making a call.

As most of them could not speak English, they were extremely isolated, and unable to communicate with others, since no interpretation or translation services were arranged except when they met the officers related to their case. Most were not told how long they would be detained. The experience was extremely isolating and distressing for them. Some had suicidal thoughts, and developed Post-Traumatic Stress Disorder (PTSD).

“I have written a letter to my son, but I cannot give it to him. Please give it to him after I die. I really cannot survive here; it is so horrible. I don't know how long I need to stay here. I believe I will die here.”

- Chen Chen

c) Infringement of privacy

The women were forced to disclose their sex work experiences to their friends or family during the legal process and police investigation, and they felt that their privacy was violated. It was also very injurious to their dignity and their relationships.

d) Infringement of their rights to property

Some of the women reported that their money and personal belongings

were lost, or had been stolen by law enforcement, when they were arrested or detained. Five reported that they had lost their identity document, jewelry, or money (ranging from CAD 5,000 to 50,000). Even when the police admitted seizing their money or personal belongings, they sometimes refused to return them. The police seized CAD10,000, a phone, and other personal belongings from a woman who was suspected of being a trafficking victim. They refused to return the seized items to her even after she had returned to her home country and the police said that her money and belongings were seized since she worked illegally in Canada.

e) Unable to access social support

It was very difficult to get the social support the migrant sex workers needed, such as shelter, counselling, and medical or other personal support, especially when they were not identified as trafficked victims. Butterfly sent 300 letters, emails, and phone messages to find social support for one of the women. Most of the social services organizations refused because she had not been officially identified as a trafficking victim and she was not a resident. Some service providers were also reluctant to offer support because they did not want to get involved in “organized crime” when they found out the migrant sex worker was connected with other migrant sex workers.

CONCLUSION

Anti-trafficking law enforcement is built on the myth of trafficking: the myth that Asian and migrant sex workers are the victims of trafficking and need rescuing, saving and protecting. In reality, anti-trafficking investigations are often racist, anti-sex work, and anti-migrant. The intersection of criminal laws, immigration laws and municipal bylaws are used against migrant sex workers, while human rights violations against these workers are justified by labelling them as illegal workers and criminals. These policies and investigations not only violate the rights of the women who are being arrested and detained; they also endanger migrant sex workers in general.

If the public believes that migrant sex workers should not suffer inhumane and degrading treatment, and have their right to liberty violated in a brothel, then

they should also not support law enforcement policies and practices that abuse their rights. The experiences of Butterfly with the 18 women who were arrested, detained, and deported reveal the reality of the harms caused by anti-trafficking enforcement. It is essential to change the public narrative surrounding sex work, migration, and trafficking, and centre the voices of migrant sex workers themselves, rather than allowing those in positions of power to continue speaking for them.

We hope you will join us as allies in helping share the stories and voices of migrant sex workers. We will work together to fight for their rights and strive to put an end to the harm that anti-trafficking policies and enforcement cause, so that migrant sex workers may live with power, safety, justice, and dignity.

This report is dedicated to the 18 strong and brave migrant sex workers.

SEX WORK IS NOT TRAFFICKING!

MIGRATION IS NOT TRAFFICKING!

SEX WORK IS WORK!

**SEX WORKERS' RIGHTS
ARE HUMAN RIGHTS**

Butterfly (Asian and Migrant Sex Workers Support Network)

BUTTERFLY

Asian & Migrant Sex Workers Support Network

Butterfly (Asian and Migrant Sex Workers Support Network) was formed by sex workers, social workers, 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. Butterfly asserts that, regardless of their immigration status, Asian and migrant sex workers should be treated like all other workers.

- **To provide support, education and information to Asian and migrant sex workers**
- **To promote safety and dignity for all sex workers, regardless of their gender, race or immigration status.**
- **To enhance access to health, social, labour and legal rights and services**
- **To promote equality and eliminate racism, stigma and discrimination against sex workers in general, and Asian and migrant sex workers specifically**
- **To facilitate the building of support networks and solidarity among sex workers**
- **To facilitate opportunities for the voices of sex workers to be heard in society**
- **To advocate for the human rights of sex workers and to promote the decriminalization of sex work**

Butterfly (Asian and Migrant Sex Workers Support Network)
butterflysw.org
1-416-906-3098
cswbutterfly@gmail.com
Canada

SAFETY, JUSTICE & DIGNITY



Asian and Migrant Sex Workers Support Network

Butterfly (Asian and Migrant Sex Workers Support Network)

butterflysw.org

1-416-906-3098

cswbutterfly@gmail.com

Publisher: Butterfly Print