



WEBINAR ON JANUARY 19:

Supporting the Human Rights of Migrant Sex Workers

Legal training for services providers & front-line workers



This webinar is based on a training provided by Elene Lam and Tara Santini, *Access to Justice: Supporting the Human Rights of Migrant Sex Workers – Legal Training for Service Providers and Front Line Workers on October 13, 2017.*

Summary of the Webinar Presentation on January 19, 2018 (prepared by Elene Lam & Vincent Wong)

A. Purpose of Training: (See Part 1- A Guide For Services Providers)

- 1) Deeper understanding of the complexity and diversity of migrant sex workers realities
- 2) Understanding the legal issues faced by the migrant sex workers (intersection of criminal & immigration laws)
- 3) Be equipped and informed to support, protect and defend migrant sex workers' labour and human rights

B. Who are Migrant Sex Workers? (See Part 3 -Legal Information for Migrant Sex Workers ; Journey of Butterflies)

A migrant sex worker refers to a person who has travelled from one place to another (through formal or informal avenues) and who exchanges sexual or erotic services for money, food, accommodation, safety, status or other compensation. They may work in various locations, including massage parlours, strip clubs, apartments, agencies or public spaces.

What is the background of migrant sex workers?

Migrant sex workers' realities are unique and diverse. They may have different gender, class, race, ethnicity, and immigration status (permanent resident, temporary resident- e.g. international student, refugee claimant, or undocumented). People make the decision to do sex work based on the range of options available to them – some do it for their basic needs, economic security and/or move away from other kinds of oppression; some do it for economic advancement, or to pursue their dreams.

“Now, I can meet different people and learn more about Canada than I could working in a food company where I had a very low salary. I have money to support myself, and my family. I am contributing to the economy and to society.” - May, who works in an indoor apartment.

The agency, dignity, safety and other rights of migrant sex workers should be respected and protected.

Situation of Migrant Sex Workers (See Part 4 –Q & A about Migrant Sex Workers for Service Providers)

Migrant sex workers are oppressed, regulated and marginalized by racism, sexism and stigma towards sex work and sex workers. This increases their isolation and the risk of experiencing violence as well as of being in conflict with laws that lead to arrest or deportation. 60% of the migrant sex workers that Butterfly spoke with experienced some form of violence, including violence from perpetrators and from police, and four migrant sex workers were murdered in Ontario between 2013 and 2016. Since 2015, more than 40 migrant sex workers have been arrested, detained and deported from Canada as a result of anti-trafficking investigations. ***The stigma, marginalization and criminalization of sex work as well as anti-trafficking enforcement increase vulnerability to violence, exploitation, inequality and their precarious working conditions. It also prevents them from accessing labour and employment protections; supports, services and their legal rights.***

D. Sex work is not human trafficking! Sex Workers are not victims!

(See Part 2 - Criminal Law and Migrant Sex Workers' Rights)

Conflating human trafficking with sex work, or focusing solely on human trafficking and imposing this framework onto migrant sex workers, can have extremely harmful effects for migrant sex workers. Sex work is frequently mistakenly recognized as trafficking and third parties as traffickers. Migrant sex workers are targeted by surveillance and raids. **An approach that assumes sex work is inherently exploitative limits service providers' understanding of the diversity of migrant sex workers' lives and realities, and the complexities of their needs and concerns. When sex work — the sale or exchange of consensual sexual services — is seen as exploitation, actual cases of exploitation in the workplace are not recognized, and workers are prevented from improving their conditions and accessing labour protections.** See Part 2 -Migrant Sex Workers' Labour and Employment Rights

This misplaced assumption increases the isolation and marginalization of migrant sex workers and also obstructs their access to protection from other kinds of violence. As a result, it may isolate migrant sex workers from supports and services, limit services providers' capacity to provide support, information and services that meet migrant sex workers' needs, and prevent a holistic approach to the protection and realization of migrant sex workers' human rights.

E. Legal problems and issues faced (See Part 1: -A Guide For Services Providers)

Legal systems and law enforcement can be the tools of protection as well as oppression. Migrant sex workers may face intersecting legal issues (municipal, criminal and immigration) that may put them at risk of being investigated, arrested, detained, losing immigration status (i.e., becoming inadmissible) and deported. They negatively impact sex workers safety and rights.

“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.” - Mimi, who was detained for three months in an anti-trafficking investigation as a suspected victim, then deported.

F. Laws that regulate migrant sex workers

i) Criminal Laws (See Part 2 - [Criminal Law and Migrant Sex Workers’ Rights](#) ; [Criminal Laws & Sex Work, Stella](#))

The Protection of Communities and Exploited Act (PCEPA) & Trafficking in Persons (CCC)

The Conservative government introduced PCEPA as the legal framework to criminalize sex work after the Supreme Court of Canada affirmed that the criminal offences related to prostitution in *Bedford* decision violated sex workers’ *Charter* rights.

- As a result, sex workers, clients, and third parties are criminalized.
- “in/direct” criminalization of sex workers and their support networks.
- Increased power of law enforcement to harass, investigate, arrest, detain and deport migrant sex workers.
- Criminal conviction may lead directly to immigration consequences (e.g. criminal inadmissibility & deportation)
- Anti-trafficking investigation and enforcement often involve law enforcement and the criminal system: Migrant sex workers are targets of surveillance and raids.

ii) Immigration laws (See Part 2 - [Immigration Law and Migrant Sex Workers’ Rights](#))

A migrant sex worker’s immigration status will affect whether they are allowed to stay in Canada; work in Canada and or work in sex industry independently.

Citizen	May be consequences if charged with criminal offense. No prohibition to stay or work in Canada or sex industry*.
Permanent resident	May be consequences if charged with criminal offense. No prohibition to stay or work in Canada or sex industry. May lose immigration status and lose permanent resident status and be deported if convicted of criminal charge.
Temporary resident (with work permit: Refugee claimant, student visa)	May be consequences if charged with criminal offense. May stay in Canada legally with a visa condition. May work legally in Canada with a work permit but all work permits now prohibit working in sex industry. May be become inadmissible* or deported if convicted of criminal charge or doing sex work in Canada.
Temporary resident (without work permit) e.g. tourist	May be consequences if charged with criminal offense. May stay in Canada legally for a limited time. Not allowed to work in Canada legally in any industry (including sex industry). May be become inadmissible or deported if convicted of criminal charge or working in Canada.
Non-status (undocumented)	May be consequences if charged with criminal offense. Cannot stay or work in any industry (including sex industry). May be arrested, detained, and deported if there is a warrant out for them and/or if convicted of criminal charge or working in Canada.

- Sex industry: includes striptease, erotic dance, escort services and erotic massages.
- Inadmissible - means that a person loses their immigration status and is ordered to leave Canada.
- Citizens, permanent residents and temporary residents may be regulated by municipal by-laws. (See Part 2- [Municipal Law and Migrant Sex Workers’ Rights](#))
- **Temporary Resident Permit (TRP) – Usually 6 months only, The migrant sex workers may still need to apply for permanent resident by other means, such as Humanitarian and Compassionate Ground (H&C).**

G. Tips for Services Providers (Part 1 [A Guide For Services Providers](#) Part 4 [Q & A about Migrant Sex Workers for Service Providers](#))

- **Anonymous and confidential:** Never disclose any information without the person’s informed/explicit consent. Understand the potential risks associated with disclosure, and the difficulties face (due to language barriers, isolation and the risk of discrimination, detention, arrest and deportation)
- **Respect migrant sex workers’ rights and decisions, and focus on what matters to them.** Discuss and learn from migrant sex workers and people who work directly with them
- **Understand that sex work is not human trafficking and that sex workers are not victims.**
- **Understand the many laws and enforcement practices that impact migrant sex workers negatively.**
- **Refer to other legal and non-legal resources, such as Butterfly.** Legal systems are only one of the tools that people may use to deal with their situation. Think creatively, collaboratively and beyond the framework and limitations of the law.
- **Recognize and resist** how racism affects sex workers.
- **Upholding & promoting sex workers’ safety and human rights: support full decriminalization of sex work.**

Trainers: Elene Lam (Executive Director of Butterfly, Project Coordinator of CCNCTO)
Vincent Wong (Staff Lawyer of CSALC)

This is general information, and does not provide legal advice. Talk to a lawyer if you want legal advice specific to your situation.

For more information:

Legal Resources for Services Providers (Upholding and Promotion Human Rights, Justice and Access for Migrant Sex Workers)

<https://www.butterflysw.org/legal-information-for-services-prov>

Part 1: Upholding and promoting human rights, justice and access for migrant sex workers: [A Guide For Services Providers](#)

Part 2: Upholding and promoting human rights, justice and access for migrant sex workers:

- . [Criminal Law and Migrant Sex Workers' Rights](#)
- . [Immigration Law and Migrant Sex Workers' Rights](#)
- . [Municipal Law and Migrant Sex Workers' Rights](#)
- . [Migrant Sex Workers' Labour and Employment Rights](#)

Part 3: Upholding and promoting human rights, justice and access for migrant sex workers: [Legal Information for Migrant Sex Workers](#)

Part 4: Upholding and promoting human rights, justice and access for migrant sex workers: [Q & A about Migrant Sex Workers for Service Providers](#)

- *Comic: Who is Who?*, Butterfly: http://docs.wixstatic.com/ugd/5bd754_7b5cf4f264634ba3baa334b82b2d0352.pdf
- *Immigration Status and Sex Work*, Stella and Butterfly, 2015: <http://chezstella.org/wp-content/uploads/2015/12/Immigration-Status-and-Sex-Work.pdf>
- *Working in Canada without Canadian Citizenship*, Stella and Butterfly, 2015: <http://chezstella.org/wp-content/uploads/2015/12/Working-In-Canada-Without-Canadian-Citizenship.pdf>
- *Migrants Know Your Rights*, No One Is Illegal: <http://toronto.nooneisillegal.org/knowyourrights>
- Butterfly, Asian and Migrant Sex Workers Support Network <https://www.butterflysw.org/resources>
- Stella, l'amie de Maimie: [Criminal laws & Sex Work, Stella](#)
- Canadian Alliance for Sex Work Law Reform: www.sexworklawreform.com
- Community Legal Education Ontario http://www.cleo.on.ca/en/resources-and-publications/pubs?language=en&field_legal_topic_tid_i18n=91

Partner Organizations:

Chinese Canadian National Council Toronto Chapter (CCNCTO)

Phone: 416-596-0833 Web: www.ccnctoronto.ca

Butterfly (Asian and Migrant Sex Workers Support Network)

Phone: 416-906-3098 web: butterflysw.org

St. Stephen's Community House (SSCH)

Phone: 416-925-2103 web: www.sschto.ca

The Chinese and Southeast Asian Legal Clinic (CSALC)

Phone: 416-971-9674, Ontario toll free: 1844-971-9674 web: www.csalc.ca

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Legal Advisor: Tara Santini

Steering Committee Members

Alvis Choi (CCNCTO) (Sept 2017-Jan, 2018), Chase Lo (CCNCTO)(Jan- Aug 2017), Elene Lam (Butterfly), Lisa Bush (Butterfly), Mary (Butterfly), Nancy Sun (SSCH), Rain Chan (CCNCTO) Vincent Wong (CSALC), Yan Chen (CSALC).

Members of Working Group

Lead: Tara Santini (Legal Advisor), Coordinator: Vincent Wong (CSALC), Aaron Li (Butterfly), Elene Lam (Butterfly), Emily Dixon, Sandra Ka Hon Chu (Canadian HIV/AIDS Legal Network), Lisa Bush (Butterfly), Mac Scott.

Project Coordinator: Elene Lam