

Good afternoon Members of the Standing Committee on Justice Policy. Thank you for the invitation to appear today.

My name is Jamie Liew and I am an immigration lawyer and an Associate Professor at the Faculty of Law, University of Ottawa. [My work](#) representing immigrant and migrant women and [my research](#) on migrant sex workers over the last 15 years informs my opinion that Bill 251 should not pass. My presentation to you focuses on the impact this bill has on racialized, immigrant, and migrant women. I have included my research as a hyperlink in my presentation document should you be interested in reading more.

In particular, I invite the members of this Committee to consider how this Bill will operate in conjunction with Federal legislation, in particular the [Immigration and Refugee Protection Act](#) and how the interaction of this Bill with this Act creates harm that may violate the *Charter* rights of racialized, immigrant and migrant women.

Bill 251's stated aim is to provide, "A survivor-centred, comprehensive and collaborative approach...to protect those most vulnerable, to support survivors and to end human trafficking in Ontario."

Bill 251 however, in my opinion, is not a collaborative response and does not protect persons but has the potential to inflict specific harm on racialized women. The constitutionality of this bill is in question and if passed, I have no doubt it will be challenged.

Before I talk about the harm this bill brings to racialized and migrant women, I want to echo submissions made by the HIV Legal Network and Butterfly in that sex work is often conflated with trafficking and the bill fuels and encourages this blurred mixing of the two terms. This conflation means that any migrant racialized sex worker may be perceived as a victim of trafficking and so any conduct that gives the police or an "inspector" the impression that sex work is occurring invites police action under this Bill. There is no obligation on the part of the police or "inspector" to distinguish those who have been coerced into sex work from those who are working in the sex industry as economic migrants.

This Bill allows the surveillance, monitoring and policing of people that frequent hotels and similar businesses on the basis of a mere suspicion that "trafficking" is or has occurred. Private information collected in these settings could be used to conduct raids, investigations and lead to arrests and deportation of racialized and migrant people. Raids and investigations have, in the past, been done alongside Canada Border Service Agency officers.

The immense power given to police in this Bill affects migrant, immigrant and racialized women in a very specific way. This group of women may have no status or either temporary or permanent residence status in Canada and any interaction with police could trigger two things:

- a) First, the perception that women are engaging in criminal activity; and
- b) Second, the involvement of Canada Border Services Agency or CBSA.

These two triggers may prompt immigration officials to find a person inadmissible to Canada.

The *Immigration and Refugee Protection Act* provides the legal mechanism of inadmissibility to deny and withdraw immigration status from a person for various reasons, including criminality. Once a person is found inadmissible, they are either denied entry or removed from Canada. A finding of inadmissibility can last for years and may impact future immigration applications and efforts to come back to Canada. For women who are the primary earners in their families, who have children in Canada, and who left their countries of origins for a variety of reasons that may have made them vulnerable, this can be long-lasting and devastating.

Sex work is also work that is not recognized as allowable work under a work permit under the *Immigration and Refugee Protection Act*. Thus, women who may be engaging in or perceived to engage in sex work may also be deemed to be acting contrary to the conditions of the work permit. This could be reason enough to find the woman inadmissible as well and result in the stripping of immigration status.

It is important for this Committee to recognize that the threshold to finding someone inadmissible to Canada on criminal grounds is very low. You don't need to show a criminal conviction or even the imposition of criminal charges, but simply reasonable grounds to believe that someone was involved in criminal activity. Thus, the simple act of being in a hotel and perceived to be involved in sex work may be enough. Inadmissibility could lead to a stripping of either temporary or permanent residence status, and trigger deportation proceedings.

Given that the police or "inspector" only needs "reasonable grounds" to believe there is "trafficking" under this Bill, the fact that sex work is taking place may be enough for police to investigate the activities in a particular business. There is a wide discretion built into this Bill.

For those with precarious or with no immigration status, police raids increase risks that persons may be identified by CBSA and therefore may trigger immigration detention and eventual deportation from Canada.

This Bill would mean that the threat of having one's identity and other information shared with police and CBSA may push migrant sex workers to work in places where the information may not be collected. These places may be less safe for sex workers.

As recognized by the Supreme Court of Canada in the case of [*Bedford*](#), legislative measures that create a risk of harm in workplaces for sex workers could be deemed unconstitutional. I refer to other submissions by sex worker organizations on the range of harms that can arise, but with regards to migrant and racialized women, the severe impact of losing immigration status and being deported cannot be understated.

The threat of losing such status as a result of being criminalized through this Bill will deprive migrant and racialized sex workers the right to security of the person because this Bill makes it

less likely for these women to work in safe and secure workplaces but also, it could deprive them of a status to remain in Canada. This therefore affects the *Charter* rights of migrant and racialized sex workers since the Bill exposes migrant and racialized sex workers to an increased risk of physical and psychological harm and imposes state interference on their right to make informed personal choices on their sexual autonomy and bodily integrity. At the extreme level, this Bill could also deprive women the right to life since it may affect choices of where sex workers work and limit their abilities to institute steps to avoid violence, including that which results in loss of life.

Further the legal framework of Bill 251 encourages hotels and similar businesses to also monitor, survey and deny service to racialized, immigrant and migrant women on the basis that their presence could subject them to police scrutiny. Given the rise of Anti-Asian hate and other racist conduct on Black and Indigenous women, it is all the more important to recognize the impact this Bill may have on the public's perception on permissible treatment of racialized women.

I urge this Committee to reject the legislative changes Bill 251 proposes. It does not address its objective of protecting vulnerable communities but rather, through increasing the power of police and in the legislative process of criminalizing racialized women, produces conditions that increases the risk of migrant and racialized women of experiencing harms that violate the *Charter* rights of these women.

Thank you. I would be happy to answer any questions.