



Racial Justice Report

A Community Consultation
to Inform Immigration Law
Reform

Research completed by:
SWAN Vancouver Society
[www. SWANvancouver.ca](http://www.SWANvancouver.ca)

*NOT FOR PUBLIC DISTRIBUTION.





Racial Justice Report

A Community Consultation
to Inform Immigration Law
Reform

*NOT FOR PUBLIC DISTRIBUTION.

Prepared By :
Julie Sou (Research Lead)
Kelly Go (Project manager)
Sonia Ma (Interviewer)

Funded by: Law Foundation of BC
September 2023

Table of Contents


Executive Summary	2
Who We Are	5
Introduction	6
Methodology	
Data Collection	8
Data Analysis	9
Results	
Overview	10
Perspectives on Work and Living Conditions by Immigration Status	
Temporary Resident Status	11
Permanent Residents	14
Implications of Legal Status on Workplace Safety	18
Perspectives on Current Sex Work Laws and Regulations	
Knowledge of Immigration Ban on Sex Work	21
Perspectives on Sex Work Legislation and Proposed Changes	23
Discussion	
Precarious Immigration Status and Workplace Violence	26
Multi-layered Sex Work Criminalization	29
Limitations	31
Recommendations	32
Conclusion	33
References	34

Executive Summary

SWAN Vancouver is a community-based, non-profit organization that strives to support newcomer, migrant, and immigrant women (hereinafter im/migrant) in sex work through culturally appropriate outreach support, advocacy, education, and research. SWAN's mission is to eliminate sex work stigma and inequities while working to uphold the human rights of im/migrant sex workers in Canada. Im/migrant sex workers experience multi-layered criminalization via municipal bylaws, prostitution and anti-trafficking laws, as well as the immigration prohibition on sex work as a result of the Immigration and Refugee Protection Regulations (IRPR). The intent of this research project, funded by the Law Foundation of BC, is to conduct a broad community consultation to elicit perspectives on the impact that the IRPR prohibition on sex work is having on the rights, safety, and overall well-being of im/migrant women engaging in sex work in Metro Vancouver.


A total of one focus group and 24 semi-structured, one-on-one interviews were conducted with im/migrant women who engage in sex work in Metro Vancouver. Thematic analysis principles were used to guide the data analysis, whereby key emerging themes were identified from the dataset. Themes were reviewed and refined by the project team and were deemed relevant if they were frequently discussed by participants with varying and/or strong attitudes and beliefs.

Project findings highlighted a number of ongoing workplace safety concerns faced by im/migrant women with varying immigration statuses who were working in massage businesses and alternative indoor locations (e.g., apartments, condos, private residences). Common concerns and incidents included robberies, client violence, interpersonal violence with massage parlour owners and colleagues, complaints by neighbours, as well as police raids. Those with temporary resident status – that is a tourist visa, work permit or international student visa – reported living under constant fear and worry with regards to the visa renewal process, visa expiration, risk of police raids, and threat of detention and/or deportation if caught working in sex work with temporary status. Im/migrant women in sex work overwhelmingly reported relying on individual-level strategies to secure their own safety, health, and personal well-being rather than seeking assistance from law enforcement or legal aid. Personal strategies involved being coerced into compromising situations or arrangements with third parties (e.g., clients, robbers, bosses, colleagues, perpetrators of violence), developing a self-image of second-class citizenship, and practicing social isolation in order to evade police and immigration authorities. Underreporting of violence to police by im/migrant sex workers due to fear of repercussions has been well documented in previous research. Participants who held permanent residency (PR) faced fewer perceived barriers and were better able to advocate for themselves and seek legal recourse.



“For me, it's okay. As I said before, I can communicate well with people, and I have legal status, so I'm not afraid to report. I also have some knowledge of laws and regulations, so I can protect my rights in that regard. But for some [women], for example, those without legal status, they definitely wouldn't report. Also, those who don't speak English well, for them, even explaining what happened would be difficult, so they might not report it. Everyone is different.” (P22, PR)

General understanding of the multiple, overlapping pieces of legislation that criminalize im/migrant sex workers was varied, with most participants expressing confusion over the federal laws and municipal bylaws governing sex work. Misinformation and contradicting information regarding sex work laws and the regulations surrounding temporary resident visas was common among participants. Participants commonly reported obtaining information directly from their peer networks or immigration consultants, which made it difficult for them to assess the accuracy of the information. Participants also emphasized the discriminatory nature of the IRPR:



“I find Canada very interesting. I didn't know much about it before. In China, it's illegal for anyone, regardless of their nationality, even for Chinese people. Of course, it's illegal. But here, how can it be like this? It's legal for citizens of this country, I don't understand why. [...] So, it's like supporting citizens of their own country to engage in these activities. Well, you can interpret it that way.” (P15, tourist visa)

As a result of this project's findings, it is clear that im/migrant women in sex work face “crimmigration” – they are criminalized not only for engaging in sex work but also due to their immigration status in Canada. Intersecting systemic factors (e.g., sex work stigma, sex work laws) and structural barriers including language barriers, education status, and financial status, create obstacles to seeking legal justice and aid for this marginalized group. SWAN calls for the continued efforts to repeal the IRPR and urges the government to work towards full decriminalization of sex work alongside community-level supports that aim to empower and uphold the basic humans rights of im/migrant women in sex work.

Who we are

SWAN Vancouver (SWAN) is a community-based, non-profit organization that provides safe and non-judgmental support for newcomer, migrant, and immigrant women (hereinafter im/migrant) women who do indoor sex work in Metro Vancouver. SWAN's grassroots, intersectional work focuses on race, ethnicity, gender, occupation, and immigration status, and how im/migrant sex workers experience discrimination, marginalization, criminalization, and stigmatization via a complex interplay of these factors in their lives and work. SWAN envisions a society in which sex work stigma, discrimination, and inequities are eliminated and non-judgmental community acceptance, supports, and resources exist for im/migrant women who engage in sex work.

For the past 20 years, SWAN has worked on racial justice issues including: increasing access to community supports and services in health, legal, criminal justice, immigration and social systems; public education in the areas of sex work and anti-trafficking to raise awareness of how policy, practice, legislation, and enforcement disproportionately impact racialized women in the sex industry; evidence-based research, peer-reviewed publications, and grey literature to inform policy and advocacy efforts, as well as the public discourse on sex work and anti-trafficking; and law reform. SWAN operates outreach and netreach programs: outreach involves visits to massage businesses and indoor locations in Metro Vancouver to disseminate safe sex supplies and address health, legal, and other work-related issues through rights-based information sharing and/or referrals to community services. The netreach program endeavors to connect with women via information and communication technologies (e.g., mobile phones, tablets, computers) to provide virtual outreach and initiate relationships with im/migrant sex workers who utilize such technologies for work.

Introduction

Newcomer and im/migrant women engaged in indoor sex work experience multi-layered criminalization via municipal bylaws, prostitution and anti-trafficking laws, and the immigration prohibition on sex work (i.e., Immigration and Refugee Protection Regulations) (Clancey & Mahon, 2020; Goldenberg et al., 2017). Of these, the Immigration and Refugee Protection Regulations' (IRPR) prohibition on sex work, which came into effect in 2012, has the greatest impact on im/migrant sex workers in Metro Vancouver. Even if sex work was decriminalized in Canada, im/migrant sex workers would still be criminalized under IRPR (Immigration and Refugee Protection Regulations Sex Work Prohibition, n.d.). More specifically, the IRPR prohibits temporary residents from working “with an employer who, on a regular basis, offers strip tease, erotic dance, escort services or erotic massages.” In other words, the IRPR effectively bars im/migrant women holding a work permit, study visa, or tourist visa from providing paid sexual services in Canada. In SWAN's legal counsel's view, the IRPR prohibitions on sex work violates Sections 7 and 15 of the Charter of Rights and Freedoms (Immigration and Refugee Protection Regulations Sex Work Prohibition, n.d.; Immigration and Refugee Protection Regulations Sex Work Prohibition Analysis, n.d.; Immigration and Refugee Protection Regulations Sex Work Prohibition Charter Violations, n.d.).

For im/migrant women who engage in sex work as an income generating activity despite these legal barriers, the omnipresent threat of arrest, detention, and deportation permeates every aspect of an im/migrant sex worker's work and life (Goldenberg et al., 2017; Mackenzie, 2017). For example, im/migrant sex workers must constantly evade police and Canada Border Services Agency detection; lose valuable time whilst employing safety mechanisms; and are the targets of interpersonal and workplace violence in a context of minimal to nonexistent labour, criminal justice, or legal protections (Immigration and Refugee Protection Regulations Sex Work Prohibition Analysis, n.d.; Immigration and Refugee Protection Regulations Sex Work Prohibition Charter Violations, n.d.).

In SWAN's work with im/migrant sex workers in the last 20 years, there have been two common outcomes in the rare instance where an im/migrant sex worker reports violence: (a) they become the target of anti-trafficking or prostitution investigation, or (b) they are deported. These instances of "crimmigration" – the convergence of criminal and immigration law and procedure – involve racial profiling, harassment, surveillance, and enforcement that disproportionately impact racialized women in the sex work industry (Clancey & Mahon, 2020; Immigration and Refugee Protection Regulations Sex Work Prohibition Charter Violations, n.d.). The purpose of this project is to conduct a broad community consultation to elicit perspectives on the impacts of the IRPR's sex work prohibition on the rights and safety of im/migrant women in sex work in Metro Vancouver. Project findings will help inform SWAN's immigration law reform efforts moving forward.

Methodology

Data Collection

A participatory action research framework was used to guide this project (Baum et al., 2006) – that is, the research question, objectives, and interview guide were co-created with im/migrant women in sex work. To achieve this, English-language drafts of the project proposal and interview guide were developed based on case studies that SWAN clients, staff, and volunteers had noted over the years; the guide was then translated into Chinese. Given the sensitive nature of the project topic, the research team were cognizant to only include questions that were relevant to the subject matter in efforts to protect participants' identity and anonymity as well as to decrease overall burden on this marginalized group. A focus group consisting of four sex workers were then recruited to review the project proposal and interview guide drafts to provide feedback on project objectives, scope, wording, and feasibility (e.g., length, flow, understandability). After revising the drafts based on focus group findings, two think-aloud interviews with participants were conducted to pilot test the interview guide whereby participants' thoughts on the feasibility and usability of the interview guide were elicited.

Recruitment of focus group and interview participants were conducted through existing networks with SWAN clients. Recruitment methods included physical and digital posters distributed by the SWAN outreach team via text, net-reach channels including We Chat, and in person during regular outreach programs. All focus group and interview participants were provided with a Letter of Information explaining the project.

A total of 24 semi-structured interviews were conducted between March and July 2024 with im/migrant women in sex work of varying immigration statuses who lived and worked in Greater Vancouver (i.e., Abbotsford to Richmond). Im/migrant women working in massage businesses and alternative indoor locations (e.g., apartments, condos, private residences where two or more women work together) were eligible to participate. Participants were selected to reflect a range of immigration statuses. Informed consent was obtained, and interviews were audio recorded for transcription and translation purposes. Interviews were conducted by one interviewer over the phone or in person in English, Mandarin, or Cantonese. All participants were assigned a study number and all research materials were de-identified. Participants received an honorarium for their time and contributions.

Data Analysis

Thematic analysis principles were used to guide data analysis (Braun & Clarke, 2006), whereby key themes that emerged from the dataset were identified. A codebook of a priori domains and constructs were developed at the onset of the project and with the creation of the interview guide by the research team. The research team first familiarized themselves with the transcripts by carefully re-reading and discussing them in-depth. The research lead then reviewed all of the interview transcripts to identify codes and organized the codes into overarching themes and sub-themes. Themes were reviewed and refined with the project manager through regular teleconferences. A theme was considered relevant if it was frequently discussed by study participants with varying and/or strong attitudes and beliefs.

Results

Overview

A total of 24 participants completed one-on-one interviews; all participants were of Chinese ethnocultural background (Table 1). More than half of the participants had permanent residency (PR) and one-third held a tourist visa. The majority of the participants worked in massage parlours (54.2%) and apartments (20.8%); one participant self-identified as a massage parlour owner. In terms of knowledge of the IRPR regulations on sex work, 66.7% reported having no prior understanding of the sex work ban, 29.2% had some knowledge, and only one participant (4.2%) reported that she had a good understanding of the regulations. It is important to note that two participants declined to continue with the interview after realizing that they needed to disclose their immigration status.

Table 1. Characteristics of the participant sample (n = 24).

Characteristic	N (%)
Age group	
20-29	5 (20.8%)
30-39	7 (29.2%)
40-49	7 (29.2%)
50-59	4 (16.7%)
60+	1 (4.2%)
Ethnocultural background	
Chinese	24 (100%)
Language spoken	
Cantonese	4 (16.7%)
Mandarin	20 (83.3%)
Current immigration status	
Permanent resident (PR)	13 (54.2%)
Work permit	1 (4.2%)
Tourist visa	8 (33.3%)
International student visa	2 (8.3%)
Work place	
Massage parlour	13 (54.2%)
Apartment	5 (20.8%)
Massage parlour & apartment	4 (16.7%)
Massage parlour & client home	1 (4.2%)
Apartment & hotels	1 (4.2%)
Knowledge of IRPR	
None	16 (66.7%)
Some	7 (29.2%)
Good	1 (4.2%)

IRPR = Immigration and Refugee Protection Regulations

Findings of Thematic Analysis

Perspectives on Work and Living Conditions by Immigration Status

While participants who held temporary resident status – that is, tourist visa, work permit, and international student visas – reported distinct concerns unique to their visa type, these participants also shared similar concerns in terms of workplace violence and structural barriers to seeking legal justice (Table 2).

Temporary Resident Status

The majority of participants with a tourist visa were aware that they were not legally allowed to work in Canada or engage in sex work and thus reported working under constant fear and worry of detainment and/or deportation. Participants responded that since they were not legally allowed to work, suitable job opportunities were scarce and it was difficult to seek employers who would hire them despite their legal status. One participant did not realize that she was in fact working illegally with a tourist visa, stating that she had heard conflicting information from her peers.

“Definitely worrisome. Yeah, you're always on edge. Without PR, you're limited in what you can do, and you can't work legally, right? That's the law. If they find out you're working, you'll be deported. So that's how it is.” (P02, tourist visa)

“Really, now that you've said it, I'm a bit scared. But I didn't know, I don't want to do anything illegal here, you know? Now that you've said it, I'm a bit scared. So this is illegal, I didn't know. Why... I just found out now, how come everyone said before that it was not illegal, it was legal? I don't understand, really.” (P13, tourist visa)

Those with a student visa reported that this specific visa was favourable as it allowed for part-time work, with allowable work hours per week recently increased. One participant reported that since obtaining her student visa, she has not worked in sex work knowing that it was barred:

"I had a tourist visa when I was working [in sex work]. Later, I applied for a student visa and stopped working because it's more troublesome when you have to study. When I saw the regulation on my visa, I thought about testing it out, but I didn't. [...] I am currently an international student visa holder, then I cannot engage in these activities, as you know I am avoiding breaking the law, so I am not doing those activities at the moment." (P07, current student visa, previous tourist visa)

Only one participant in our sample held a work permit and shared her knowledge of the current prostitution laws in Canada but was unaware of the sex work regulations tied to her work permit:

"So regardless of whether I have a regular job and part-time work, it's illegal, right? Is this a new policy? Um, to be honest, I think there is definitely some risk if it's really like this, but I don't think it would stop them from working in this field." (P05, current work permit, previous student visa)

With regards to impacts to daily life, those with temporary resident status commonly reported ‘inconveniences’ and limitations including the inability to apply for a credit card, rent a place to live, travel freely outside of Canada, and access to affordable healthcare. Participants were largely concerned about visa expiration and renewal, as well as fearful of random street and border checks. International students expressed that they found it difficult to make ends meet with the high international students tuition fees coupled with the high cost of living in Metro Vancouver, despite the permissible part-time hours. In efforts to evade police, immigration authorities, and unnecessary questioning by peers in the workplace and daily life, some participants reported keeping to themselves and avoiding social situations altogether.

“Well, yeah, to some extent. I always have to think about when it's going to expire, and also, I can't enjoy healthcare benefits if I get sick or anything like that, and if I want to go to the US for a visit, I need to apply for another visa because I don't have a US visa. And even for traveling to other places, I can't just go.” (P15, tourist visa)


“Yes, without PR, sometimes we have bad luck. When walking on the street, the police may check your passport, and if it's expired, there's a risk of deportation.” (P11, current PR, previous tourist visa)

“For example, when I first came to Canada from China on a tourist visa, they asked me about my purpose of visit and called me into a small room. Maybe it's because of my age, they tend to suspect young single women. It's not just in China; it happens to young single women from other places too. They ask you how much money you have, your travel plans, and when you will return. I think maybe they only asked me and not others. It could be a form of discrimination.” (P11, current PR, previous tourist visa)

“Yes, I tend to stay indoors most of the time. I don't want to tell people what I do, but I also don't want to lie about it. So, I just stay away from social situations. Yes, that's why I rarely go out. I don't want to share with others what I do or lie about it, so I just avoid meeting people.” (P18, tourist visa)

Permanent Residents

Over half of all participants had permanent residency (PR) status. When reflecting on the impact of their immigration status on their work, participants reported feeling little to no fear or worry with regards to risk of police checks and raids at the workplace. They reported feelings of enhanced protection and flexibility, more available job opportunities within and outside of sex work, and increased autonomy at work (e.g., ability to accept/decline clients, work fewer hours).




“In most cases, for apartments, I initially worked with a boss, so I didn't have the choice. [...] But later, when I had legal status, I occasionally worked in apartments, and as the boss,

I could decide. If I receive a call, I can choose to say, "OK, I won't open the door," or "I can choose to open the door." But at the beginning, I didn't have a choice.” (P11, current PR, previous tourist visa)

“Yes, that's right. So, if you obtain PR or comprehensive decriminalization, it provides an additional level of security for those working in this industry, such as health and other aspects. It provides an extra sense of security, whether in terms of livelihood or psychological well-being. (P11, current PR, previous tourist visa)

“Well, I feel more at ease after obtaining PR. I don't have to worry about whether what I'm doing is illegal or not anymore. I used to always be afraid and worried about that.” (P12, current PR, previous work permit)

In terms of impacts to day-to-day life, participants with PR reported experiencing enhanced rights and privileges including the ability to enroll in school or training programs and access medical care. Some participants also shared that they were better able to integrate into Canadian society with their PR status, feel more settled and stable in their work, consider transitioning out of sex work, and were able to engage in long-term planning for the future.




“Yes, exactly. I feel more settled and at ease with a status, and I would like to have a regular job and a stable life. I don't have to worry like before when I had a student visa, wondering if I will stay or if there will be a question mark.” (P16, current PR, previous student visa)

“Previously, we might have worked full-time, but after obtaining PR, we start thinking about changing our living situation and gradually integrating into society. We may consider changing jobs, but it won't happen immediately. It's a gradual process. We may transition from full-time to part-time work and try to find a balance. So, I think having legal status allows you to think more long-term, and it brings changes to your life.” (P11, current PR, previous tourist visa)

Despite work and life benefits, participants reported a number of **limitations associated with their PR status** including a residency requirement, limited job opportunities, and persistent language barriers. Moreover, the process of applying for permanent residency itself was difficult, with participants reporting that it was a long and expensive process, often consisting of confusing and inconsistent information, and requiring a plethora of qualifications (e.g., education requirements, language skills).

A common perspective elicited from participants was that of obtaining PR through **marriage to a Canadian citizen** as the least risky pathway. This sentiment was also a major topic of discussion during the focus group, where participants lightheartedly asked each other if they knew of any eligible men on the market.



“You have to meet the residency requirement to get a Maple Leaf card*, you have to be here for five years, and live here for at least two years. So, I decided to stay here. [...] Here, I started from scratch, and also, [...] I came here with poor language skills, so it was difficult to find a job. Many jobs wouldn't hire me because of that. That's why I got into this industry based on my experience, right?” (Po1, PR)

*Maple Leaf card refers to PR status

“[I] just haven't found a way, a pathway to apply. [...] I actually asked an immigration consultant, but many consultants explained differently. Some say that you can apply for PR after working for a year and taking the IELTS* exam. Some say it takes two years because many work permits are for two years. You can renew for another two years after the first two years, and then you can apply for PR. So, everyone says something different. Therefore, people like us who do not know much about these things do not know which one is true.” (Po4, tourist visa)

*IELTS = International English Language Testing System

“Yes, because if it's for work or study, it's very difficult to get a PR card. There's a study permit for studying and a work permit for working, but if you want to apply for PR through the fastest route, it's through marriage. [...] This process is quite fast, about a year and a half to two years to get PR. If it's through a work permit or study permit, it takes at least three to five years.” (P11, current PR, previous tourist visa)


Table 2. Perceived implications of immigration status on the living and working conditions of women in sex work.

	Working Conditions	Living Conditions
Tourist visa	<ul style="list-style-type: none"> · Worry and fear while working (e.g., police raids) · Few job options · Does not allow for work · Immigration ban on SW · Misinformation from recruiters, immigration consultants · Rely on individual-level strategies to promote workplace safety 	<ul style="list-style-type: none"> · Limitations <ul style="list-style-type: none"> o Can not apply for credit card o Difficult to rent housing o Can not travel outside Canada freely o Inaccessible healthcare · Fear of random street checks that can lead to detention/deportation · Fear of random border checks that can lead to detention/deportation · Language barriers · Concerns over visa renewal and expiration
International student visa	<ul style="list-style-type: none"> · Part time work allowed · Preferred visa for SW as it allows work · Immigration ban on sex work · Rely on individual-level strategies to promote workplace safety 	<ul style="list-style-type: none"> · High cost of living · Higher tuition fees as international students · Concerns over visa renewal and expiration
Work permit	<ul style="list-style-type: none"> · Immigration ban on sex work · Rely on individual-level strategies to promote workplace safety 	<ul style="list-style-type: none"> · Limitations (e.g., rental housing)
Permanent resident	<ul style="list-style-type: none"> · Less work and fear while working · More protection · More flexibility · More job options within and outside SW · More autonomy at work · More inclined to report workplace violence to police and authorities 	<ul style="list-style-type: none"> · More rights/ privileges · Increased access to school/ training, medical care · Stability · Integration into society · Opportunity to transition out of SW · Can engage in long-term planning · Language barriers may persist

SW = sex work

Implications of Legal Status on Workplace Safety

Participants reported a number of **workplace safety concerns and structural barriers to obtaining legal assistance** while working and living with precarious status. Commonly reported workplace safety issues included robberies, client violence, mistreatment by massage parlour/ apartment bosses and/ or other workers, being reported by neighbours, and random police checks and raids. Participants shared that seeking help from police and/or lawyers was situation dependent – participants were more inclined to report violences experienced in their personal lives but hesitant to report workplace incidences. Some attempted to resolve workplace disputes independently, relied on massage parlour owners and colleagues for support, turned to police as a last resort, and others reported not reaching out or feeling as though they did not have the means to obtain legal justice. Commonly, those with temporary resident status were fearful of involving police for fear of detention and deportation due to their status.



“There's no way to get help. So who do you turn to? You can't go to the police, can you? If you report being robbed, the person who robbed you might retaliate. So, people are afraid to report these incidents. [...] So, because we are foreigners and our English is not good, and we don't have legal status, it's difficult to seek help. It's mainly because of the language and identity issues.” (Po2, tourist visa)

“No, we did not report it to the police. We called our boss, but he could not do much to help us or compensate us. If we were on a tourist or student visa, we would not dare to report such incidents either because we were not allowed to engage in this kind of work, and it would have serious consequences on our visa status. We invested a lot of money and time to come here, hoping to immigrate eventually. However, if we have these kinds of problems, it would ruin our efforts.” (Po7, student visa)

“Yes, there are definitely risks. If you have a tourist visa and you work, you'll be very worried. What if the police show up, or if you have a conflict with a customer, and you have to call 911? You would try to avoid attending or leave as soon as possible. If you get bullied during work, you'll definitely have to put up with it. You don't want to have any unnecessary conflicts because if you end up at the police station, they will ask you if you were working, which would be embarrassing. This is something we want to avoid.” (Po7, current student visa, previous tourist visa)


Perceived barriers to seeking help from police and/ or lawyers included language barriers, high cost, having to disclose sex work status, and sex work stigma. Given these barriers, some participants reported relying on grassroots organizations, including S.U.C.C.E.S.S. and SWAN, for legal assistance.

“Yes, exactly. I think because our SWAN organization supports women, including those working in this industry, they understand us better. We don't need to explain the work procedures much; it's straightforward. You can provide a general overview, and they will understand. Also, I think SWAN has many professional legal experts who have a better understanding.” (P11, PR)

Those with PR reported experiencing fewer barriers to seeking help, namely having ‘legal status’, and thus were more inclined to report workplace violence to police and/or seek out lawyers for legal help.

“For me, it's okay. As I said before, I can communicate well with people, and I have legal status, so I'm not afraid to report. I also have some knowledge of laws and regulations, so I can protect my rights in that regard. But for some [women], for example, those without legal status, they definitely wouldn't report. Also, those who don't speak English well, for them, even explaining what happened would be difficult, so they might not report it. Everyone is different.” (P22, PR)

The majority of participants expressed that they **relied on their own efforts and means** to ensure workplace safety. Participants reported keeping a 'low profile' to avoid drawing attention to their immigration status, staying out of trouble, complying and compromising with clients and bosses rather than escalating the situation, and aiming to be model citizens. Participants also often referred to luck when attempting to make sense of their lived realities and workplace harms. Those with temporary resident status often perceived themselves to have "lower status" than those with PR and/or citizenship.



"We knew our status before too. It's like being a person; when you don't fit in the environment, you have to learn to be low-key, right? Low-key means, at the very least, you won't get into conflicts with others. [...] If you think someone else gets paid more, it's because of their different status; it's bound to be different. That's why each place chooses bosses and workers separately. The boss has overall responsibility, and we workers have our own scope of responsibility." (P17, PR)


"Yes, because, in this line of work, we usually prefer to avoid trouble whenever possible, right? Even if the boss encounters such situations, she might just brush it off and try to keep the peace. Theoretically, I could report incidents to the police, but if I do, the boss might decide not to run the business anymore. If I report it, all the [women] might leave, and the shop will close down. So, even if you suffer a bit, the boss won't report it to the police." (P22, PR)

"It all depends on luck. There is no other way to solve this problem. We all think that if you call the police, it's all up to luck. If you're lucky and encounter a reasonable police officer, maybe he won't check your work permit, but they may not be able to control it. So, we won't take the risk for those uncertainties." (Po4, tourist visa)

Perspectives on Current Sex Work Laws and Regulations

Knowledge of Immigration Ban on Sex Work

The majority of participants, regardless of immigration status, shared that they were confused by the Immigration and Refugee Protection Regulations (IRPR) prohibition on sex as well as overarching sex work laws. Many shared that they felt that the laws were a ‘grey area’, varied by city (i.e., municipal bylaws), and were difficult to understand. Notably, some participants expressed that they found the IRPR ban on sex work discriminatory.



“I used to think that you needed a work permit and status to work, how could you work without it? But now I realize that many people without status are still working in this field. The government says you can't work, even if you have status. I wonder why only this industry is restricted, while others are not. We wonder why people with work permits can't work in the industry they want. So, we want to understand why.” (Po1, PR)

“Actually, I find the Canadian laws regarding "sex work" quite strange. Is it legal or not? If it's legal, then why can't other people who work in this industry immigrate? Because if you want to immigrate, you will really encounter many difficulties. Even if you come here with a normal visa, you cannot work in this field, right? But if you belong to the illegal category, why are there so many legal clauses saying that it is allowed? So, actually for us, this law is very confusing, and we don't know what it means.” (Po7, current student visa, previous tourist visa)

“I find Canada very interesting. I didn't know much about it before. In China, it's illegal for anyone, regardless of their nationality, even for Chinese people. Of course, it's illegal. But here, how can it be like this? It's legal for citizens of this country, I don't understand why. [...] So, it's like supporting citizens of their own country to engage in these activities. Well, you can interpret it that way.” (P15, tourist visa)

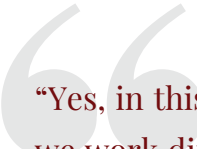
Some shared that despite the plethora of laws, they did not feel as though police enforced them, while others feared arrest and/or detention if found working illegally. Common sentiments expressed by participants with PR was that the IRPR regulations did not affect them resulting in an increased sense of security while engaging in sex work.

"The key is, the key is that I have legal status now. [...] Has it affected me? I think it's been fine because I have legal status, so I can work in this industry, right?" (P12, current PR, previous work permit)

"It doesn't affect me at all. No, because I make it clear during the hiring process that they must have legal status." (P19, PR, MP owner)

Perspectives on Sex Work Legislation and Proposed Changes

When asked about what and how sex work and immigration laws should be changed, most participants discussed the benefits sex work decriminalization would afford. Participants in favour of sex work decriminalization shared that it would contribute to increased stability and security while working, fewer reports by neighbours, enhanced protection and ability to seek help, anonymity with not having to apply for a permit or label, and decreased discrimination from others.



“Yes, in this way, we can work with peace of mind, right? [...] For example, like us now, we work directly in the community, and we rent apartments to work, so when we come in and out, there are definitely neighbors [...] who may feel disturbed and complain about us. And then for us who don't have a legal visa, like me as a student who wants to work in this area, I'm afraid that if the neighbor reports to the police that I'm coming and going here and may be engaged in this kind of work, it will cause trouble for me. [...] This way, we can also protect ourselves. If we encounter someone trying to rob us, we can say seriously that we are calling 911, right? You can't escape or do anything, and others won't say anything about us. For us, it's a kind of invasion.” (Po7, current student visa, previous tourist visa)

“Yes, because I've seen many people in this line of work, and most of them have their own stories. So, if it's decriminalized, it could allow us to earn money more legitimately through normal advertising. We work to earn a living, and I think it would be better that way.” (P21, current PR, previous tourist visa)

When asked specifically about thoughts and perspectives on a sex work visa, participants' views were divided. Those in favour of a sex work visa stated that it would afford them with improved job security, enhanced economic situations, and reduced discrimination. However, the majority of participants expressed concerns over having a sex work record or label associated with such a visa, which may result in implications on future immigration applications. Some expressed that they wished to conduct sex work discreetly and this visa would 'out' them to authorities. Others shared that this visa would not function to remove sex work stigma but perpetuate it, would be difficult to implement, and ultimately would not be possible as it would be at odds with the current prostitution legislation and immigration ban on sex work in Canada.



“Well, I don't think I would because it would definitely create a record somewhere that I have this kind of visa. I am worried about bias. It's not good for your record.” (P05, current work permit, previous student visa)

“Exactly, I just don't want it to be part of my background, that I applied for this "sex work" visa. I want to keep a low profile while I'm here for a short time and then leave without leaving any trace.” (P18, tourist visa)

“I don't think that [a sex work visa] would work because the laws in Canada don't consider it a legal profession, right? (P09, PR)

“If the government considers sex work to be illegal, then they wouldn't openly introduce a "Sex Work Visa" because it would contradict their aim to restrict the industry. So, I don't think the issuance of such a visa is a likely possibility.” (P22, PR)

Overall, participants expressed skepticism at the possibility of legislative change and felt that change was unlikely, were unsure of how changes would improve working conditions, and did not see how sex work could be regulated.

"I don't think so. But even if everything is open, students can also do this work. In reality, whether it's banned or not, if someone wants to do it, they will do it, right? You can't possibly know if someone is doing it or not, right? It's difficult to control. [...] It's all the same, no matter how policies change, it remains the same. There haven't been any significant changes." (P10, PR)

Discussion

Precarious Immigration Status and Workplace Violence

The narratives as told by im/migrant women in sex work in this research project confirm the ongoing concerns around **occupational safety and workplace violence** present in indoor sex work establishments. Im/migrant women face continued interpersonal and structural violence in the workplace including client violence, massage parlour/ apartment owner coercion, interpersonal conflicts with colleagues, robberies, and police raids (Goldenberg et al., 2017; Mackenzie, 2017). Our findings also confirm past research that demonstrates how im/migrant women in sex work largely underreport violence to authorities due to the multiple barriers in accessing the criminal justice system, stigma around sex work, fear of police intervention and/or detainment, and concerns over sharing their sex work status with external parties (Mackenzie, 2017; McBride et al., 2020).

These findings illustrate the intersecting **macrostructural determinants** that work to shape the behavioural attitudes and self-protective mechanisms of im/migrant women in sex work. That is, the intersections between the immigration ban on sex work, current prostitution laws, and the pervasive stigma surrounding sex work result in a reluctance and distrust for police intervention as well as other formal channels including various forms of legal aid/ counsel (Goldenberg et al., 2017; Mackenzie, 2017). As per our findings and as evidenced by similar studies, im/migrant women opt for **individual-level strategies** to ensure their own safety such as adopting a model citizen mentality to life and work as a way to ‘stay out of trouble’, being coerced into compromising situations or arrangements with third parties (e.g., clients, robbers, bosses, colleagues), and ultimately isolating oneself from society in order to remain hidden or ‘unseen’ (Wong et al., 2011). Im/migrant women in our project demonstrated a high degree of resilience in their attitudes towards work and life while making sense of their realities by attributing workplace conditions to ‘**luck**’. For example, participants will often describe events like workplace violence (e.g., robberies, police raids) as simply being the result of ‘bad luck’ while the absence of police presence/ intervention or workplace harms are attributed to ‘good luck’.

Previous studies have explored im/migrant women in sex work under a **precarious status/labour lens** – that is, a group that faces employment insecurity, low wages, limited social and workplace protections, and inability to exercise rights due to a lack of citizenship in destination countries (Benach et al., 2014; McBride & Janushev, 2021). However, such studies have not explored how distinct immigration statuses may shape and affect work and living conditions. Our project reveals a dichotomy of perspectives between those holding **temporary resident status** (i.e., tourist, worker, student visa) and those with permanent residency (PR). Participants with temporary visas reported a number of workplace concerns and challenges such as experiencing constant worry and fear, working in secrecy to evade police intervention, and experiencing a low sense of security/ stability due to uncertain visa status, particularly around visa expiration and renewal. Fear surrounding precarious immigration status compounded by structural barriers such as a lack of language proficiency, financial insecurity, and inadequate pathways to obtaining legal status result in the underreporting of workplace harms to employers and authorities, perpetuate inequities, and entrench women in precarious positions (Gagnon et al., 2022). Temporary visa holders work and live under constant fear of police raids, street checks, and detainment and/or deportation. Given the lengthy application process for PR and the accompanying education and language requirements, many temporary visa holders express skepticism at the ability to change their temporary status due to a lack of pathways towards citizenship and are ultimately held responsible for their lack of status (Gagnon et al., 2022).

In contrast, participants who obtained **permanent residency** (PR) perceived this as equivalent to having full citizenship and often used terms like “citizen”, “legal”, and “having status” interchangeably to describe their PR status. Participants overwhelmingly perceived that having obtained PR as having accomplished their end-goal and as such experienced a sense of security in their work and living situations. Having PR was often tied to ideas of increased workplace safety, access to protection under human rights laws, enhanced flexibility and autonomy in the workplace (e.g., ability to screen and refuse clients), as well as the opportunity to make long-term plans and goals (e.g., education and training, transition out of sex work). In fact, some shared that they did not perceive a difference between PR and full citizenship and as such had no intentions to obtain full citizenship. However, as per the Government of Canada, there is a clear distinction between PR and full citizenship – while PR status is more secure and less precarious than temporary resident status, PR status can be revoked under a defined set of circumstances such as inadmissibility as a result of criminality resulting in a removal order (Edelmann, 2013; Government of Canada, 2022). This disconnect in understanding of the full implications of PR status further exemplifies the inaccessible nature of immigration laws and regulation that place im/migrant women of this status at an enhanced risk of criminalization.

Multi-layered Sex Work Criminalization

Im/migrant women in sex work face **multi-layered criminalization** via prostitution laws (i.e., Protection of Communities and Exploited Persons Act (PCEPA)), trafficking provisions, municipal bylaws, as well as the immigration ban on sex work (i.e., IRPR). These overlapping pieces of legislation place temporary visa holders at the greatest risk for workplace violence, social isolation, underreporting occupational safety concerns, and detainment/ deportation by police (Clancey & Mahon, 2020; Goldenberg et al., 2017; Mackenzie, 2017).

Canada enacted end-demand legislation in 2014 – that is, a model of partial decriminalization of sex work intended to decrease the demand side of sex work without criminalizing those on the supply side (i.e., sex workers) (McBride et al., 2020; SWAN Vancouver, 2022). However, this model still serves to criminalize sex work overall as it places workers at risk of exploitation, increased surveillance, harassment, perpetuated barriers to justice, as well as the risk of detention and deportation for im/migrant workers (SWAN Vancouver, 2022). Participants in this current study shared their views on how a model of full decriminalization of sex work would potentially improve working conditions, increase safety, protect their identities, and decrease the stigma surrounding sex work; findings that have been well documented in research (McBride et al., 2020; SWAN Vancouver, 2022). In fact, participants opted to support full decriminalization of sex work rather than the issuance of a sex work-specific visa, similar to that currently available in Australia (SEXHUM Australia, n.d.). This is largely due to the fact that they believed that a sex work visa would only continue to perpetuate sex work stigma (e.g., through labelling or record creation of sex work status), be at odds with current sex work legislation in Canada, and would be logistically difficult to implement.

Advocacy groups, such as SWAN, have long since called for the IRPR to be repealed citing discrimination on the grounds of legal status and further entrenching women in precarious work environments with no legal recourse. For example, if temporary visa holders attempt to report a crime (e.g., robbery while at work), they face risk of detention and deportation while the perpetrators of violence can act with impunity as a result of the worker's silence and fear of repercussions (Clancey & Mahon, 2020). In an October 2022 response to a review of PCEPA by the Minister of Justice of Canada, the IRPR was recommended for review and repeal as it placed 'foreign nationals' working in sex work at the risk of deportation (Minister of Justice and Attorney General of Canada, personal communication, October 20, 2022).

The overlapping pieces of sex work legislation also place an increased burden on im/migrant women as they must navigate the complex and often confusing legal landscape surrounding their profession (Clancey & Mahon, 2020; Gagnon et al., 2022). Due to language barriers, the inaccessibility of resources, and the lack of accessible and accurate information, women in our study instead turned to peers and other informal sources of information, often resulting in misinformation surrounding the legalities of sex work. The lack of vetted information also highlights the systemic problems inherent in sex work, namely the stigma surrounding sex work, which inhibits open communication among sex workers and instead pushes women to seek information exclusively within their social circles (McBride & Janushev, 2021). For example, participants reported varying degrees of success when consulting immigration consultants as they were provided with conflicting information and had limited means to confirm accuracy. In the case of women with PR status, many participants largely ascertained that the IRPR did not affect them; however, many were unaware that they could still be penalized under the criminal code under prostitution and trafficking laws, placing them at risk for possible revocation of their status.

Limitations

Despite our best efforts, this research project does not reflect the full diversity of all marginalized im/migrant women who do sex work, including undocumented women and those facing impending detention and/or deportation. Continued community support by SWAN and other grassroots organizations is necessary to provide resources and assistance to these women. While the research team took efforts to minimize social desirability bias, it is important to note participants may still have over-reported positive and under-reported negative perceptions and experiences. Additionally, the research team reviewed and revisited translated transcripts multiple times in order to rectify translation errors and correct the conflation of terms and concepts (one such case being the terminology around legalizing vs. decriminalizing sex work). Such translation errors reflect the complexity and many nuances of the topic at hand. Lastly, it is also important to note that, through frequent meetings, members of the research team purposefully engaged in an examination of their own roles, potential biases, and influence on the research question, data collection, recruitment, as well as the interpretation of the data collected. Through these meetings, members were self-reflective about their preconceptions, values, and opinions that may have shaped study results and findings.

Recommendations

Systems-level

- Repeal the Immigration and Refugee Protection Regulations (IRPR) ss. 183(1)(b.1), 196.1(a), 200(3)(g.1), and 203(2)(a), provisions that currently place im/migrant sex workers at increased risk of violence, as well as risk of subsequent arrest, detention and deportation.
- Decriminalize sex work in Canada to ensure that all sex workers have access to their basic human rights including, health, social services, and access to legal and labour protections.

Community-level

- Information and resources specifically aimed at explaining implications of the IRPR on sex work for those with temporary resident status (i.e., work permit, tourist visa, international student visa)
- Information and resources specifically designed for permanent residency holders and implications of working in sex work
- Community level supports and programming that address social isolation, help facilitate understanding on sex work laws, and workplace protections (e.g., peer programs)
- Accessible training to address structural barriers as identified by study participants including English classes, help with navigating applications, obtaining funding

Conclusion

Im/migrant women in sex work are notably marginalized as they face multiple, overlapping sources of criminalization including the immigration ban on sex work and over-reaching, regressive sex work laws. Additionally, im/migrant women in sex work face challenges including stigma surrounding sex work, workplace violence, language barriers, discrimination, and social isolation. As a result of these intersecting systemic and structural factors, im/migrant women experience continued obstacles in seeking legal recourse and assistance to protect and promote their own health, personal well-being, and safety. Im/migrant women in this study instead relied on individual-level strategies to attempt to ensure safety and security, which often led to accessing inaccurate information from within their social networks, being coerced into compromising situations or arrangements with third parties (e.g., clients, robbers, bosses, colleagues), underreporting workplace violence to law enforcement or employers, attributing positive and negative experiences to a sense of 'luck', as well as isolating themselves from society in order to remain hidden and unseen. Moreover, due to the immigration ban on sex work, participants with temporary resident status who do seek help from law enforcement face the risk of detention and deportation, which only serves to enable and protect perpetrators of the violence against them. It is our conclusion that the IRPR continues to violate and infringe upon the human rights of im/migrant women in sex work in Canada and as such, we call for the continued efforts to repeal the IRPR and urge the government to work towards full decriminalization of sex work.

References

- Baum, F., MacDougall, C., & Smith, D. (2006). Participatory action research. *Journal of Epidemiology and Community Health*, 60(10), 854–857. <https://doi.org/10.1136/jech.2004.028662>
- Benach, J., Vives, A., Amable, M., Vanroelen, C., Tarafa, G., & Muntaner, C. (2014). Precarious employment: Understanding an emerging social determinant of health. *Annual Review of Public Health*, 35, 229–253. <https://doi.org/10.1146/annurev-publhealth-032013-182500>
- Braun, V., & Clarke, V. (2006). Using thematic analysis in psychology. *Qualitative Research in Psychology*, 3(2), 77–101. <https://doi.org/10.1191/1478088706qp063oa>
- Clancey, A., & Mahon, F. (2020). Strategic Redirection through Litigation: Forgoing the anti-trafficking framework to address labour abuses experienced by migrant sex workers. *Anti-Trafficking Review*, 15, Article 15. <https://doi.org/10.14197/atr.2012201512>
- Edelmann, P. (2013). Immigration Consequences at Sentencing. Trial Lawyers Association of BC.
- Gagnon, M., Kansal, N., Goel, R., & Gastaldo, D. (2022). Immigration Status as the Foundational Determinant of Health for People Without Status in Canada: A Scoping Review. *Journal of Immigrant and Minority Health*, 24(4), 1029–1044. <https://doi.org/10.1007/s10903-021-01273-w>
- Goldenberg, S. M., Krüsi, A., Zhang, E., Chettiar, J., & Shannon, K. (2017). Structural Determinants of Health among Im/Migrants in the Indoor Sex Industry: Experiences of Workers and Managers/Owners in Metropolitan Vancouver. *PLOS ONE*, 12(1), e0170642. <https://doi.org/10.1371/journal.pone.0170642>
- Government of Canada. (2022, May 18). Understand PR Status. Immigration - Refugees and Citizenship Canada. <https://www.canada.ca/en/immigration-refugees-citizenship/services/new-immigrants/pr-card/understand-pr-status.html>
- Immigration and Refugee Protection Regulations Sex Work Prohibition. (n.d.). SWAN Vancouver. Retrieved December 12, 2022, from <https://swanvancouver.ca/resource/immigration-and-refugee-protection-regulations-sex-work-prohibition-background/>

Immigration and Refugee Protection Regulations Sex Work Prohibition. (n.d.). SWAN Vancouver. Retrieved December 12, 2022, from <https://SWANvancouver.ca/resource/immigration-and-refugee-protection-regulations-sex-work-prohibition-background/>

Immigration and Refugee Protection Regulations Sex Work Prohibition Analysis. (n.d.). SWAN Vancouver. <https://SWANvancouver.ca/resource/immigration-and-refugee-protection-regulations-sex-work-prohibition-analysis/>

Immigration and Refugee Protection Regulations Sex Work Prohibition Charter Violations. (n.d.). SWAN Vancouver. Retrieved December 12, 2022, from <https://SWANvancouver.ca/resource/immigration-and-refugee-protection-regulations-sex-work-prohibition-charter-violations/>

Mackenzie, K. (2017). Barriers to Justice for Migrant and Immigrant Sex Workers: A Community-Led Research Project. SWAN Vancouver Society.

McBride, B., & Janushev, T. (2021). Criminalisation, Health, and Labour Rights Among Im/migrant Sex Workers Globally. In S. M. Goldenberg, R. Morgan Thomas, A. Forbes, & S. Baral (Eds.), *Sex Work, Health, and Human Rights: Global Inequities, Challenges, and Opportunities for Action*. Springer. <http://www.ncbi.nlm.nih.gov/books/NBK585685/>

McBride, B., Shannon, K., Bingham, B., Braschel, M., Strathdee, S., & Goldenberg, S. M. (2020). Underreporting of Violence to Police among Women Sex Workers in Canada: Amplified Inequities for Im/migrant and In-Call Workers Prior to and Following End-Demand Legislation. *Health and Human Rights*, 22(2), 257–270.

Minister of Justice and Attorney General of Canada. (2022, October 20). Preventing Harm in the Canadian Sex Industry: A Review of the Protection of Communities and Exploited Persons Act—A Response [Personal communication].

SEXHUM Australia. (n.d.). SEXHUM: MIGRATION, SEX WORK AND TRAFFICKING. Retrieved September 15, 2023, from <https://sexhum.org/sexhum-australia/>

References

SWAN Vancouver. (2022). Legislative Frameworks for Sex Work.

<https://SWANvancouver.ca/wp-content/uploads/2023/07/Legislative-Frameworks-5.pdf>

Wong, W. C. W., Holroyd, E., & Bingham, A. (2011). Stigma and sex work from the perspective of female sex workers in Hong Kong. *Sociology of Health & Illness*, 33(1), 50–65. <https://doi.org/10.1111/j.1467-9566.2010.01276.x>