



WEBINAR ON JANUARY 19:

Supporting the Human Rights of Migrant Sex Workers

Legal training for services providers & front-line workers



Elene Lam & Vincent Wong

January 19, 2018

St. Stephen's
Community House



Chinese Canadian National Council
TORONTO CHAPTER
全加華人協進會(平權會)多倫多分會



CSALC
CHINESE AND SOUTHEAST ASIAN
LEGAL CLINIC



Funded by



The Law
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of Ontario



Trainers



Elene Lam (Executive Director at Butterfly, Project Coordinator at CCNC-TO)

Elene is the founder and Executive Director of Butterfly (Asian and migrant sex workers support network) and the Migrant Sex Workers Project (MSWP). She has been involved in the sex work, gender, migrant and labour movement and activism for more than 17 years.

Vince Wong (Staff Lawyer at the Chinese and Southeast Asian Legal Clinic)

Vince works with low-income, non-English speaking clients. He advocates on issues such as immigration reform, migrant worker rights, and the racialization of poverty. Vince has litigated at all levels of tribunals and courts, including at the Supreme Court of Canada.

Welcome: Instructions

- We welcome your questions and comments on the presentations and the topic in general.
- Given the very large number of people who have registered, we can only take written questions and comments.
- Please use the 'Questions' box on your dashboard – on the left hand side of your screen - to type in your questions or comments on our presentation.
- You can type your questions in at any time. We will answer your questions after we finish the presentation.
- The powerpoint slides you will see during the presentation will be sent to you after the webinar (OR 'can be accessed through the 'Handouts' tab on your dashboard).
- After the webinar, you will receive an email with a short feedback survey. Your feedback is very important to us, and will help us to improve our next webinar.
- We are not able to do trouble shooting of the technical problem of the webinar.



Butterfly Voices

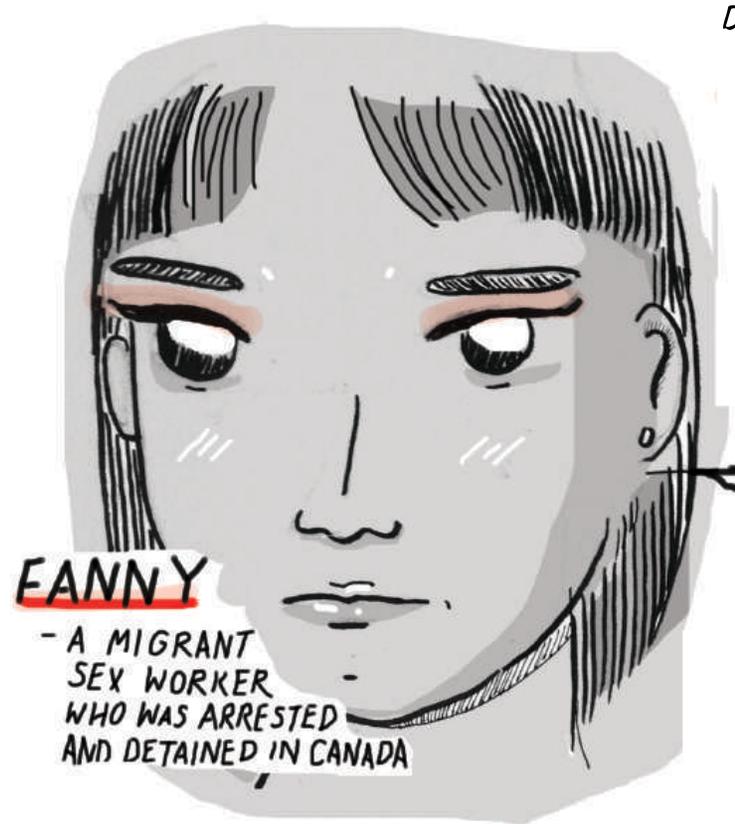
CALL FOR SUBMISSIONS
FROM MIGRANT SEX WORKERS WORLDWIDE

“Just like other people , I have to do what to do everyday”.
Lily , 2016

“I’m a sex worker because I’m good at working with people, an underestimated skill required in this field. I find this work more fulfilling than previous jobs”(Pearl, 2016)

“To sex work, was my decision just as that moment when I decided to be free and fight against gender oppression, transphobia, exclusion, discrimination and the possibility to loss important relationships.” (Betty, 2015)

Fanny's Story (see comic attached)



Since 2015, 23 members from Butterfly in Canada and more than 40 migrant sex workers in Ontario have been arrested, detained and deported, as a direct result of anti-trafficking investigations.



Cookie's Story Detention



“Canada Border Services Agency [Immigration officers] arrested me to wait for deportation.....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.... 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.”





Niki's story



- Niki became homeless after she ran away from her abusive partner and moved in with a friend, Lucy. They are both migrant sex workers.
- One day, Niki was robbed and assaulted by a perpetrator at the apartment.
- The neighbour had heard Niki screaming earlier and called the police because she was concerned that someone was being trafficked.
- A police officer arrived, did not allow them to leave, and called the Canada Border Services Agency (CBSA).
- Niki was arrested because she lost her status when her application for refugee status was rejected, and was therefore prohibited from working in Canada
- Lucy, who worked together with Niki, was arrested because she was suspected of trafficking. The police suspected Lucy was a trafficker because she helped Niki advertise and assisted her with transferring money back to her home country. (Butterfly, 2017)

Purpose of Training



- Achieve a deeper understanding of the complexity and diversity of **migrant sex workers (MSW) realities**
- Understand the legal issues faced by migrant sex workers (especially the intersection of criminal & immigration laws). **Existing laws and law enforcement may impact migrant sex workers negatively.**
- Be equipped and informed to support, protect and defend migrant sex workers' human rights and labour rights.

Who are migrant sex workers?



Migrant sex workers comprise of estimated 50%-60% of sex workers globally

Who are migrant sex workers?

- Travel from one place to another
- They are **diverse**: race, class, gender, immigration status, other circumstances
- Immigration status is often precarious and can change quickly
- They exchange sexual services for money, food, accommodation, status, safety, etc.
- They may/may not identify as migrant sex workers

Sex Work: For basic needs, economic security, self-actualization or pursuit their dreams, resist oppression

** may be the best option in circumstances or the only option in others*



Common issues faced by Migrant Sex Workers

- Language barriers, social isolation
- Racism and racial profiling
- Discrimination and criminalization
- Conflict with laws & law enforcement
- Violence from *both* law enforcement and perpetrators
- Constant threat of surveillance, arrest, detention & deportation
- Personal agency is not recognized or respected (assumed to be trafficked victims who need rescue)
- Do not trust service providers/law enforcement
(thus do not feel safe disclosing identity & information)



Sex work is not human trafficking!

Sex workers are not victims!

- The automatic conflation of human trafficking with sex work can have extremely harmful effects for migrant sex workers.
- Sex work is mistakenly recognized as trafficking and third parties are recognized as traffickers.
- Migrant sex workers then become targets of surveillance and raids.

**Victim label denies the decisions, autonomy and agency of sex workers.*

**Obstructs them from accessing critical labour & social supports and protection from other kinds of violence.*

Laws and Law Enforcement

- Legal systems and law enforcement can be tools of protection as well as tools of oppression
- Many municipal, immigration, and criminal laws are structured so that migrant sex workers are frequently in conflict with them
- Aggressive anti-trafficking enforcement tactics have increased the surveillance and raids of workplaces for migrant sex workers
 - Possible consequences include: surveillance and harassment from law enforcement, fines, arrest, detention & deportation
- Can incidentally impact migrant sex workers by:
 - Pushing them further underground and increasing their vulnerability to exploitation and precarious working conditions
 - Prevent them from accessing labour and workplace health and safety protections
 - Prevent them from accessing services, establishing safety measures, building support networks and obtaining access to justice and human rights

Case study – Miu

- Miu overstayed in Canada after her refugee application was rejected.
- She worked at her friend Tiffany's apartment as an employee.
- Miu helps Tiffany advertise services on the website.
- Tiffany is responsible for receiving money from the clients and storing it for Miu to avoid robbery.
- Miu was being sexually assaulted by a client (perpetrator) last week and she is afraid to continue to work. Miu also found out Tiffany spent her money; does not intend to pay Miu her wages.

How would you support Miu ?

_ please type your answer into the 'Questions' box on your dashboard

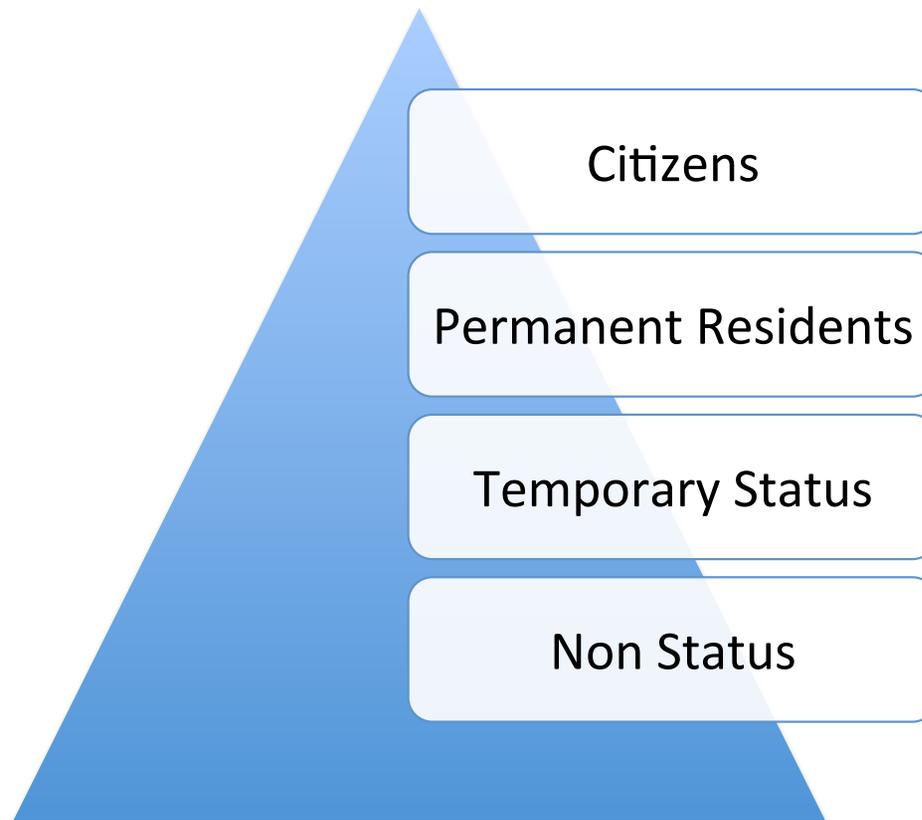
Criminal Code Provisions

Protection of Communities and Persons Exploited Act (PCEPA)

- All **clients**: purchase/attempt to purchase service (CC 286.1)
- All **third parties**: (e.g. manager, agent, drivers, webmasters – CC 286.2 – 286.4)
 - Facilitate or profit from delivery another's sexual service
 - **Sex workers often act as third parties for other sex workers**
- Sex workers, clients and third parties in public spaces (CC 213)
- Sex work related offences **do not require exploitation**
 - Material benefit CC 286.2
 - Procuring CC 286.3
 - Advertising CC 286.4
- Third parties also risk being targeted for human trafficking offences CC 279.01-279.02

Immigration laws

- Immigration status is fluid and can be changed
- Application and impacts of immigration policy depend on immigration status.



Immigration laws

Immigration and Refugee Protection Regulations (IRPR)

Immigration and Refugee Protection Act (IRPA)

- IRPR s. 183(1)(b1) , 196(1)(a):
- Prohibits all temporary residents from legally working for employers offering striptease, erotic dance, escort services or erotic massage

Inadmissible- means that a person loses their immigration status and is ordered to leave Canada.

- Criminal inadmissibility – s.36(1) and (2) of IRPA

Legal intervention/support

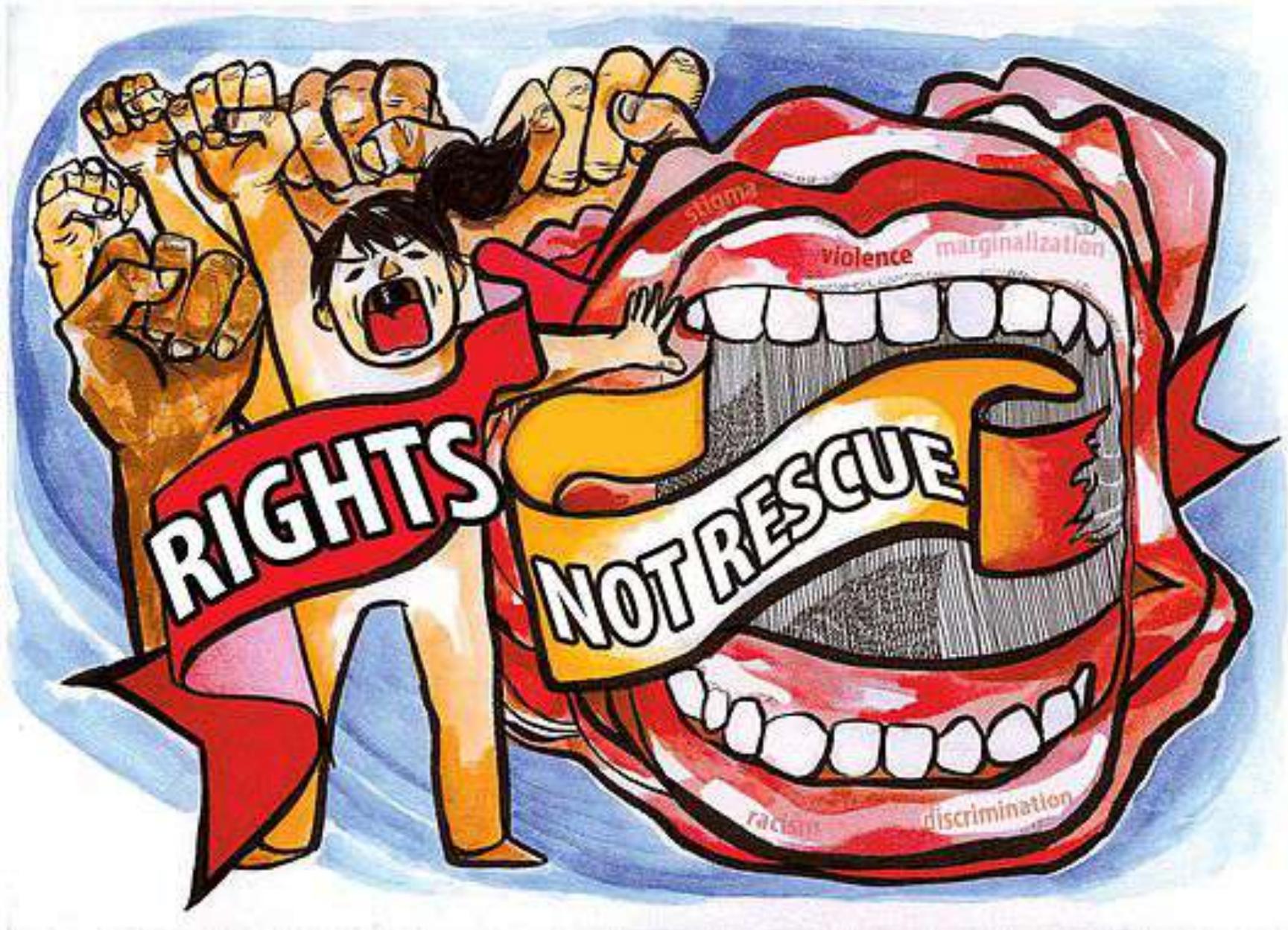
- **Criminal law:** offenses related to violence & coercion, defenses to criminalization of sex work
- **Employment law:** employment protections, negotiation
- **Immigration law:** detention reviews, inadmissibility appeals, H&C applications
- **Family law:** intimate partner violence, custody, support
- Potential **risks** associated with legal intervention
 - Fickle shifts from victim to criminal/illegal migrant
 - Issues of disclosure - lack of confidentiality & anonymity
 - Lack of respect for client agency
 - Victim of trafficking TRP (risk of being rejected, usually only 180 days)



Holistic non-legal interventions

- Ask always: what does the client want?
 - They are the expert in their own lives! Respect their agency!
 - Improve working conditions? Leave an exploitative working environment ? Leave abusive personal relationship? Access legal protection? Punish abuser/perpetrator? Find a safe haven?
- What are their rights and the risks may they face for each option?
- What resources can you mobilize? Create a safety plan !
- Provide **Confidential and Anonymous** support and services
- Develop and explore options and possibilities:
 - Resources, community supports, organizing, empowerment, help increase bargaining power and address information gaps
 - Be creative! Develop new initiatives, networks, ways of support





How can you support MSWs?



- **Understand** the realities of MSWs:
 - The diversity, complexity of situations and risks they face
- **Be creative** but grounded in the realities and needs of MSWs to develop confidential and anonymous support
- **Collaborate** with sex worker rights organizations and allies on specific issues and challenges for sex workers (e.g. Butterfly)
- **Be a proper ally** by centering sex workers' voices and leadership
- **Respect** the self-determination and agency of MSWs
- **Differentiate** between sex work and human trafficking
- **Support decriminalization** of sex work publicly
- **Fight** for related struggles for migrant justice and anti-racism
- **Fight** for access to health, social and legal services for criminalized and migrant communities
- **Reflect** on your own biases and assumptions about sex work
- **Share** with others!!!!

Rights not Rescue!



butterfly

Asian and
Migrant Support
Network

Butterflysw.org

Training Materials

Part 1: Upholding and promoting human rights, justice and access for migrant sex workers:
[A guide for service providers](#)

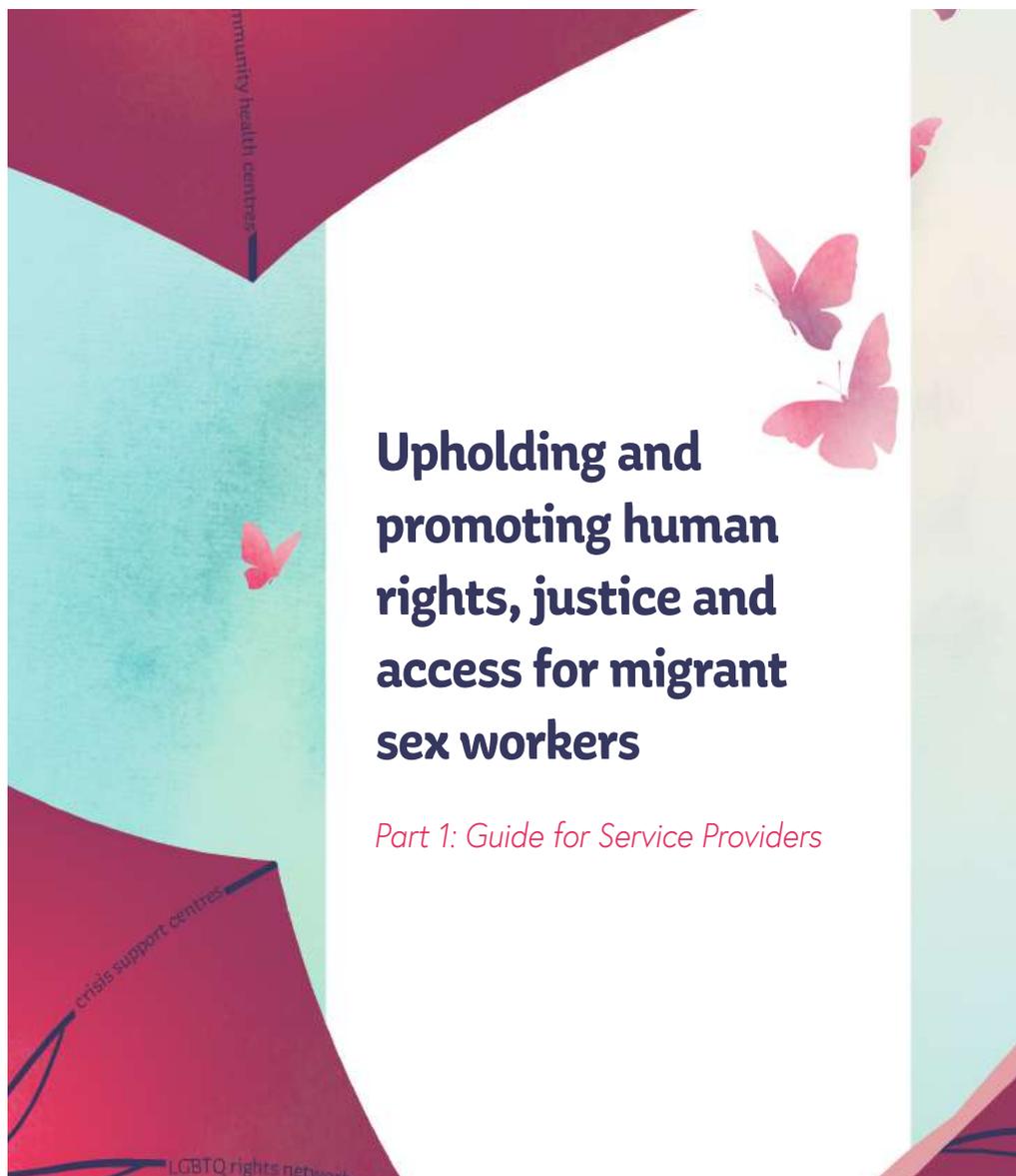
Part 2: Upholding and promoting human rights, justice and access for migrant sex workers:

- [. 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](#)

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



Legal Resources for Service Providers

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

Question & Answer

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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.*

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Thank You !

- You will receive an email with a short feedback survey. Your feedback is very important to us.

Let us know what you think about the training

- Please contact Elene Lam at elenelam2020@gmail.com if you have any questions or need any clarification!

Design by Polai!



**SAFETY,
DIGNITY,
JUSTICE!**

Support Migrant Sex Workers Rights.

Special thanks to all contributors of the project

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Special thanks to all the migrant sex workers from Butterfly

Partner Organizations

[Chinese Canadian National Council - Toronto Chapter \(CCNC-TO\)](#)

[Butterfly: Asian and Migrant Sex Workers Support Network](#)

[Chinese and Southeast Asian Legal Clinic \(CSALC\)](#)

[St. Stephen's Community House \(SSCH\)](#)

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Thank you for your support to migrant sex workers !

