

# Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada

CONDENSED BY RAVESSA FEJZULLAI

## What are our current laws surrounding sex work?

- Bill C-36, *The Protection of Communities and Exploited Persons Act (PCEPA)*, became law on December 6, 2014. The conservative federal government made these laws without any consultation with sex workers. It stories all sex work as exploitative and violent, describes sex workers as "victims" of prostitution, and says that all sex work is harmful to Canadian society. It targets customers and third parties who work with sex workers. Sex workers are unable to hire bodyguards, drivers, receptionists, and are prohibited from working out of a house together, all of which could help to prevent sex workers from being put in dangerous situations and being exploited.
- The criminalization of sex work perpetuates stigma and discrimination against sex workers. The criminalization of sex work increases police hostility towards sex workers, undermining sex workers' ability to access the criminal justice system when crimes are committed against them.
- The PCEPA does not acknowledge the realities of sex workers' lives across Canada but instead subjects all sex workers to laws that infringe on their human rights, which are supposed to be guaranteed in Canada. The government argues that the criminalization of sex work will eradicate violence towards and exploitation of sex workers.

**Decriminalization of sex work is the first step to increasing the overall wellbeing, safety, and dignity of people who sell or trade sex.**

## How does the PCEPA affect specific groups of sex workers? Which rights does it infringe upon?

### WORK

- Sex workers state that these laws isolate them and subject them to exploitation. The PCEPA sees no difference between sex work, labour exploitation, and violence. Removing sex work-specific criminal provisions can lead to identifying actual exploitation in the industry. Decriminalizing sex work can allow for negotiating and improving working conditions. Sex work-specific criminal laws should be nullified to respect sex workers' rights.
  - **RECOMMENDATIONS:**
  - Exploitation and violence within sex work should be dealt with using provisions already put in place to address those specific issues with their general application. Cases of trafficking within sex work should be dealt with using provisions already in place to address them, with their general application.
  - Laws regarding hiring conditions, terminating employment, overtime, parental leave, occupational health and safety frameworks, and unions should apply to sex workers to allow for sex workers to deal with unsafe or unfair working conditions.
  - Sex workers should be eligible to claim workers' compensation for earnings lost due to work-related violence, injury, or illness. They should be determined through an unbiased and evidence-based process.
  - Existing employment laws across Canada share objectives such as reducing exploitation, upholding employment standards, and protecting from unfair competition based on poor treatment of workers, which should also be applied to sex workers.

### Rights infringed upon by PCEPA:

- sex workers' rights to work, privacy, equality and non-discrimination
- life, liberty and security of the person
- health, working conditions that are just, favourable, safe and healthy
- freedom of expression, freedom of peaceful assembly, freedom of association, freedom from unreasonable search and seizure, freedom from arbitrary detention and imprisonment, and freedom from torture and cruel, inhumane and degrading treatment

### The PCEPA

- displaces and isolates sex workers who fear contact with police
- increases violence towards sex workers
- increases police profiling of sex workers not racialized as white (in particular im/migrant and Indigenous sex workers)
- misuses trafficking provisions, which lead to detention and deportation of im/migrant sex workers.

# continued...

## MIGRANT

- Im/migrant workers are often subjected to excessive work hours and low pay, im/migrant sex workers have even less bargaining power to address these conditions, which leads to possible exploitation. Potential trafficking does not justify excluding these workers from employment protections.
  - **RECOMMENDATIONS:**
  - Use evidence-based research to inform anti-trafficking initiatives and prohibit the over-broad misuse of anti-trafficking initiatives as a general law enforcement strategy to target sex work and im/migrant sex workers.
  - Provisions related to trafficking in persons exist for the purpose of addressing concerns about forced and coerced labour for the purpose of exploitation. If these provisions are applied in a manner that clearly distinguishes sex work from trafficking, greater attention can be directed towards addressing exploitative working conditions among im/migrant workers when exploitation actually occurs.

## INDIGENOUS

- Indigenous communities are over-policed, and Indigenous women are over-represented in prisons. Indigenous women, particularly those who are sex workers, are targeted for violence because predators know that police are less motivated to investigate their disappearances and that Indigenous women avoid police due to fear of apprehension. Violence against Indigenous, women sex workers is misconstrued as trafficking. This paints Indigenous women as victims without agency and leads to more policing of Indigenous communities, and makes access to the justice system harder for Indigenous sex workers.
  - **STATEMENT:**
  - The conflation of all sex work with trafficking, and the presumption that Indigenous women and girls are at a higher risk for trafficking, leads to increased surveillance and puts them and their communities in conflict with law enforcement. There is no increased protection and it does not lower rates of violence against Indigenous women and girls.

## YOUTH

- Young people sell and trade sex for many reasons, including to feed themselves. Criminalizing youth sex workers and third parties leads to the same infringement of rights as it does with adults, and prevents youth from negotiating arrangement conditions and pushes them away from supports to address exploitation, which leads to violence rather than safety of youth in sex work. If youth are breaking the law while trying to provide for themselves or their families, they can and are placed in detention facilities.
  - **RECOMMENDATIONS:**
  - Sexual exploitation of youth within sex work should be dealt with using provisions already put in place to address that issue with its general application.
  - Youth need to be able to access nonjudgemental, harm reducing services. Youth poverty should be addressed in ways that are not based in the criminal justice system or coercive protection agencies. Existing measures used to deal with violence and exploitation of youth should also be used, with their general application regarding youth who sell or trade sex.
- **OTHER RECOMMENDATIONS:**
  - Health mandates such as mandatory health checks and use of condoms infringe on sex workers' and clients' privacy rights. They have been used to control and stigmatize sex workers. They are not mandatory for all sexually active people, so sex worker-specific mandates are discriminatory. However, testing services should be funded more and made more accessible. Sex workers should have input into health initiatives and guidelines that affect them.

**Governments should review and analyze legislative outcomes, including their impact on sex workers, with meaningful involvement of and consultation with a diversity of sex workers from various regions.**

1. Decriminalization is just the first step to sex worker liberation. Other steps include addressing poverty, housing crises, problems within healthcare, inadequate access to safe transportation, problems accessing legal aid, over-incarceration.
2. Selling sex is not inherently immoral, and all persons of legal age can engage in consensual sex without being subjected to the denial of their autonomy, or their health and safety being put at risk based on the religious or moral views of others.
3. The argument that sex workers should be removed from society tells people that sex workers are less valuable and should not get to work and live safely and with dignity, which leads to violence and discrimination.
4. The law should not interfere with sex workers' efforts to make their work environment safer, such as
  - Screening clients.
  - Hiring and working for third parties.
  - Working with others indoors or outside.

All information in this fact sheet was taken directly from the Canadian Alliance for Sex Work Law Reform's, Recommendations for Sex Work Law Reform in Canada. The Alliance worked closely with 24 of their member sex work advocacy groups to establish the recommendations.

Member Groups: Action Santé Travesties et Transsexuel(le)s du Québec (ASTTeQ) (Montreal) Angel's Angels (Hamilton), BC Coalition for Experiential Communities (BCCEC) (Vancouver), Butterfly (Toronto), Canadian HIV/AIDS Legal Network, Émissaire (Longueuil), FIRST (Vancouver), Maggie's Toronto Sex Workers Action Project (Toronto) Migrant Sex Workers, Project (MSWP) (Toronto), PEERS (Victoria), Projet Lune (Quebec), Prostitutes Involved Empowered Cogent Edmonton (PIECE) (Edmonton), Providing Alternatives, Counselling and Education (PACE) Society (Vancouver), Rézo, projet travailleurs du sexe (Montreal), Safe Harbour Outreach Project (S.H.O.P.) (St. John's), Sex Professionals Of Canada (SPOC), Sex Workers Advisory Network of Sudbury (SWANS) (Sudbury), Shift (Calgary), Stella, l'amie de Maimie (Montreal), Stop the Arrests! (Sault Ste. Marie), Strut! (Toronto), Supporting Women's Alternatives Network (SWAN) (Vancouver), West Coast Cooperative of Sex Industry Professionals (WCCSIP) (Vancouver), Winnipeg Working Group for Sex Workers' Rights (Winnipeg)

Canadian Alliance for Sex Work Law Reform. Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada, Final Report. 2017, <http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf>.