

Peers Victoria Resources Society

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For the Committee on the Elimination of Discrimination Against Women (CEDAW)

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Gender Equality Means the Decriminalization and Destigmatization of Sex Work in Canada

Background

Peers Victoria Resources Society is an innovative, multi-service grassroots agency established by, with, and for sex workers since 1995. Through direct services and community partnerships, we provide an array of peer-focused outreach, harm reduction, housing support, education, violence prevention, and advocacy for current and former sex workers and their connected communities on Coast Salish territories known as Greater Victoria.

Who are sex workers? It is a very gendered trade. Do not assume you know anything about sex workers and their lives as their experiences are wildly diverse. Sex Workers are predominantly women, transgender and non-binary folks. They can experience intersectional experiences of marginalization by also being Indigenous, an immigrant/migrant, a person of color, facing economic barriers, or by struggling with their physical and/or mental health. Sex workers are parents, aunts, partners, friends, and community members who are contributing members of society. The beauty of sex work is there is opportunities for everyone. It's a job where - whatever your age, race, size, or abilities, there is a market for your body.

When we consider class, we see that sex work is a working class reality. It uses the body similarly to other forms of labor work. Sex work feeds families, but financial hardship and custody concerns are balanced with worrying about social services and nosy neighbors. When we consider intersections like sexuality, gender, and race we find that trans people, Black, Indigenous, Asian, and people of color, are oversexualized and fetishized. The further from the margins, the more overrepresented folks are in street-level work, which makes them more visible and subject to violent aggressors.

Sex Trafficking is NOT sex work

Human trafficking is a human rights violation. It is defined as the recruitment, transportation, harboring and/or exercising control over someone's movements of a person with the purpose of sexual exploitation. However, in Canada, sex work and human trafficking are often conflated in practice and policy, enabled by the the targeting of third-party sex workers in accordance with the Protection of Communities and Exploited Persons Act (PCEPA).

The current federal laws that impact sex workers in Canada are PCEPA and IRPR. The objective of PCEPA was to reduce exploitation for sex workers, however, evidence shows that it increases exploitation and precarity for sex workers (Appendix 1). Researchers on the impacts of PCEPA, as well as sex worker rights organizations argue for PCEPA to be repealed, and for sex work (including third party sex work and advertising) to be decriminalized (Appendix 1). For example, s. 286.2 (1), states that "everyone who receives a financial or other material benefit knowing that it is obtained or derived directly or indirectly from the commission of an offence under subsection 286.1(1) is guilty of an indictable offence". This means that anyone working in the industry supporting sex workers (drivers, escort agency workers, phone operators, bodyguards, etc.), can be charged with s. 286.2(1) of the criminal code. Evidence shows that having access to bodyguards, drivers, and working in a communal setting decreases exploitation and isolation (Appendix 2).

The IRPR puts restrictions on temporary residents which prohibit them from engaging in sex work; if discovered, these individuals can be arrested, detained, or deported. This means that migrant sex workers will most likely not report violence that they experience to police as they fear arrest or deportation. This reality puts them at a higher risk of violence because of the additional barriers migrant sex workers encounter accessing health and safety supports.

IRPR restrictions prohibiting women from working in legal workplaces and offering sensual services, such as strip clubs, massage parlours, and escort services infantilize migrants and treat them as incapable of making their own life decisions. They are discriminatory and should be removed. It's important to ensure that migration policies respect the rights and agency of all individuals, regardless of their background. Policies that prohibit certain types of work for migrant workers undermines their autonomy and economic opportunities.

Balancing the protection of individuals from exploitation and ensuring that they have equal rights and opportunities in the workforce is imperative toward achieving gender equality. We argue that protecting all workers from exploitation and ensuring fair working conditions is best achieved through repealing PCEPA and IRPR restrictions and decriminalizing sex work, including for migrant workers, which would enable sex workers to have more autonomy over their work, allow for safer working conditions, and help destigmatize the industry.

Analysis on Canada's Shortcomings on Meeting the Article Requirements for Sex Workers

Article 5:

The stigma and stereotypes surrounding sex work distorts the way that law and policy-makers see sex workers. As a result, sex workers are not treated as adults capable of consenting to (and refusing) sex. This has serious implications for women's and gender diverse individuals' autonomy, as well as their experiences accessing criminal law protections, particularly as complainants in cases of sexual assault. Criminalizing any aspect of consensual sex work reinforces the stigma which results in violence. Stigma is the riskiest aspect of sex work because it sends the message to aggressors that no one cares for their lives and safety. The stigma associated with sex work shapes how sex workers are perceived and treated by legal and policy frameworks; inversely the legal framework shapes how the public perceives women and gender diverse individuals who engage in sex work and thus is an important step towards ending stigma.

Stigma can have several profound implications:

Autonomy and Consent: Stigmatizing attitudes can undermine the recognition of sex workers as adults capable of making their own informed choices about their work. This can lead to policies that are paternalistic or that fail to respect their agency and autonomy.

Access to Legal Protections: The stigma surrounding sex work can also impact sex workers' ability to seek legal protections. For instance, they might face barriers when trying to report crimes such as sexual assault, due to the fear of---or reality of---not being believed or facing judgment and discrimination. This can result in sex workers being more vulnerable to exploitation and abuse.

Policy and Legal Frameworks: When sex work is stigmatized, laws and policies might be designed in ways that either ignore or exacerbate the risks faced by sex workers. For example, PCEPA prevents sex workers from working collectively or with third party sex workers (bodyguards, drivers, phone operators, etc.), which can foster isolation, work precarity, and unsafe working conditions.

Addressing these issues often involves advocacy for de-stigmatization and reforms that recognize the rights and needs of sex workers. This can include advocating for legal protections that explicitly safeguard against discrimination and violence, as well as promoting policies that enable sex workers to access support services and justice without fear of reprisal or bias. Ensuring that sex workers are treated with respect and dignity and that their rights are fully recognized and protected is a crucial step toward addressing stigma and achieving gender equality in a field largely dominated by women and 2SLGBTQ+ individuals.

Article 6:

The criminalization of sex work through PCEPA increases sex workers' susceptibility to violence by alienating sex workers from protective mechanisms, including law enforcement. The criminalization of sex work and the conflation between human trafficking and sex work further impacts sex workers' safety and access to justice in the following ways:

Increased Vulnerability to Violence: Criminalizing sex work can drive sex workers into more precarious situations. Fear of arrest and legal repercussions may prevent them from seeking help from law enforcement or reporting

violence and exploitation. This isolation makes them more vulnerable to abuse and exploitation.

Alienation from Protective Mechanisms: When sex work is criminalized, it creates a hostile environment where sex workers may feel alienated from law enforcement and other protective services. This lack of access to support can exacerbate their risk of violence and exploitation.

Conflation with Trafficking: The conflation of consensual sex work with human trafficking can lead to a misguided approach in law enforcement and legal systems. This conflation can result in aggressive crackdowns on sex work, regardless of consent or exploitation, and can obscure the identification of genuine trafficking situations.

Legal and Policy Implications: When sex work and trafficking are treated interchangeably, it complicates efforts to address trafficking effectively and increases disinformation and stigma against sex work. Genuine cases of trafficking may be overlooked or misclassified, and sex workers who are not trafficked may suffer from policies designed to combat trafficking but which inadvertently harm them.

Article 11:

The criminalization of third-party sex work under PCEPA, prohibits commercial sex work enterprises such as massage parlours, micro brothels, and communal workspaces. It also prohibits the use of bodyguards, drivers, and administrative assistants. This leaves sex workers without access to labour protections and supports which can lead to precarious and unsafe working conditions.

Article 12:

The criminal provisions against communicating for the purpose of purchasing sexual services (Section 286.1(1) in the Canadian Criminal Code) in any context interferes with the negotiation of safer sex practices and can result in risky encounters with clients when health and safety boundaries have not been articulated in advance.

Article 15:

Criminalization of sex work alienates sex workers from police, dissuading them from accessing the justice system when they are victims of crimes. As well, as mentioned above, The IRPR puts restrictions on temporary residents which prohibit them from engaging in sex work; if discovered, these individuals can be arrested, detained, or deported. This means that migrant sex workers will most likely not report violence that they experience to police as they fear arrest or deportation.

Our recommendations

- The repeal of all sex work-specific criminal laws and bylaws in Canada and Internationally.
- Remove immigration regulations that prohibit migrant sex work, including within the IRPR in Canada.
- Stop the conflation between sex work and human trafficking. End harmful law enforcement raids, detentions, and deportations of sex workers by ineffectively using anti-trafficking policies and frameworks to target sex workers.
- Fund and support peer led/focused sex work programs and services that are rights-based, destigmatizing, and operate within an evidence-based framework.

Interviews

The following are direct quotes from sex workers that reflect the impacts of stigma and criminalization. These quote reinforce our assertion that gender equality means the decriminalization and destigmatization of sex work.

Person 1: “Access to services otherwise available to women such as women’s transition houses are either denied, calls have been ignored, or simply not returned for lengthy periods of time, weeks while I’m desperately needing temporary housing support until I find a new home”.

Person 2: “Your entirety as a human being is discarded by what you do to pay your bills and be a good person. I am a good person. My house is clean, I am clean. I give love and I care for a living. How bad could I be?”

Person 3: “It keeps me stuck in my situation and unable to perhaps move into different things even if I’m making every effort to do so. I can go to school get education and still be haunted by the stigma of being or having been a sex worker. At jobs or when looking for them. At housing or when applying for it. It’s left me homeless when I had money and could afford a home. I’m responsible, I’ve always paid my rent on time. I’ve always paid my bills. I’ve never lost a home because I didn’t pay my bills. But I’ve been homeless for long periods of time, usually four months to get into a home and find one. In order to get one, I end up having to get more expensive homes that have less competition of applicants. Then I’m having to pay for it by doing my sex work”.

Person 4: “Social isolation and making friends, can be challenging given the depth to which stigma about sex workers has resonated to on the micro level , from the above macro level.

Clearly our lives, my life , would be a transformed experience of great significance, under legislation that has continued with its negative spin and oppressive ideology around ancient old women's work , all sex workers work, of all genders and diversities, which only reflect the greater population and it’s diversity.”

Person 5: “Legislation that isolates and continues to isolate marginalized communities, vulnerable communities, women, indigenous people, indigenous women in particular, LGBTQ and otherwise stigmatized community members, who are human too, is violating and perpetuating violence on basic human rights of those people. It builds hatred, separation, isolation, addiction, hopelessness and mental health issues, depression, increasing the potential for further violence exponentially. All of which could be solved by acknowledging people's rights, and making safety, and freedom from abuse, something everyone in Canada deserves; more important than upholding a century old Christian colonial narrative held by mostly men up until this day which is clearly not having the results that anyone could really ever think are favourable. To whom?”

Person 6: “Sex work stigma has distanced me in my family from my family. I’m a good kid and I do good things. I’m talented and sweet. But all they see is I’m a prostitute and I’m shamed. Abandoned. If our society respected sex workers, respected our work, respected us as human beings too, that would set a different tone. To families and among one another. On the micro level”.

Person 7: “It is impossible to find housing as a sex worker without lying about what you do for work on rental applications. Landlords will not rent to sex workers — and if I do manage to secure housing by lying, I am constantly at risk of homelessness if my landlord does find out.

Being an “out” sex worker has long lasting consequences, like being unable to secure another job due to your involvement in the sex trade”.

Person 8: “Stigma has made it difficult for me to access a legal representative to incorporate my business-- every lawyer I have reached out to won't touch me with a ten foot pole. It's so frustrating knowing that I am operating legally but am unable to hire legal counsel, a driver, security, etc., because they're criminalized under the current law. I'm trying to play by the rules of running my business like a business but am always tiptoeing around my bank, landlord, etc. Bill C36 is outdated and needs to go!”

Person 9: “Being face-out carries a risk of being banned by other countries when traveling abroad for simply being a sex worker, even with no proof of any plans to work in another country”.

Person 10: “No housing protections, if a landlord discovers what I do, I can be evicted with no proof only suspicion”.

Appendix

(1) Benoit, C. and Mellor, A. (2023). Editorial: Decriminalization and What Else? Alternative Structural Interventions to Promote the Health, Safety, and Rights of Sex Workers. *Social Sciences*, 12(3), 202 <https://doi.org/10.3390/socsci12040202> (article)

(2) Benoit, C., Smith, M., Jansson, M., Magnus, S., Ouellet, N., Atchison, C., Casey, L., Phillips, R., Reimer, B., Reist, D., Shaver, F. (2016). Lack of confidence in police creates a ‘blue’ ceiling for sex workers’ safety. *Canadian Public Policy/Analyse de politiques*. DOI: <http://dx.doi.org/10.3138/cpp.2016-006> (article)