



# Sex Workers' Rights

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“They just need to make it legal, legal. Not have grey areas, and just make it legal. . . . Why do you have to come and destroy lives, and make people lose their houses and lose their kids? Why do you have to break families up? It's ridiculous. . . . Why would I want to talk about that stuff behind closed doors, where I could get hurt?” – KELLY, A SEX WORKER FROM LONDON, ONTARIO

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Research has consistently demonstrated the negative effects of criminal law on the health and safety of sex workers — a fact that has led a growing number of human rights organizations and UN bodies to call for the repeal of sex work–specific criminal laws. However, Canada continues to criminalize virtually every element of the sex industry by prohibiting:

- sex workers from impeding traffic or pedestrians, or communicating in certain public places to offer or provide sexual services;
- purchasing sex, i.e. all clients are criminalized;
- materially benefitting from sexual services;
- procuring sexual services; and
- advertising sexual services.

Numerous studies have concluded that laws that attempt to abolish sex work by banning the purchase of sex have contributed to violence against sex workers, who are forced to work alone and in more isolated places, as well as to rush negotiations with potential clients for fear of police detection.

Research has also demonstrated that police targeting clients and third parties rather than sex workers has not reduced rates of violence against sex workers or enhanced their control over their sexual health, but has facilitated their removal from public spaces and perpetuated labour conditions that subject them to greater risk of violence and poor health. The criminalization of third parties who work with, provide services to, or associate with sex workers further forces sex workers to work away from social support networks and without proven safety mechanisms.

Moreover, the conflation of sex work and human trafficking has resulted in aggressive surveillance from law enforcement officers who have profiled migrant and Indigenous sex workers as human trafficking victims, thus exposing their coworkers, employers, or employees — many of whom may also be sex workers — not only to criminal charges as third parties, but as traffickers.

## PRIORITIES FOR ACTION

To uphold the health and human rights of sex workers, we must:

- **Repeal all sex work–specific criminal laws.**
- **Eliminate immigration regulations prohibiting migrants from engaging in sex work** and related industries.
- **Review anti–human trafficking policies and programs that wrongly equate sex work with human trafficking** to remove assumptions that sex work is a form of trafficking or sexual exploitation.
- **End the use of anti–human trafficking initiatives to justify racial and social profiling** of sex workers and the intrusion of law enforcement in places where sex work takes place.
- **Ensure that Canada Border Services Agency is never involved in anti–human trafficking investigations** and that sex workers are never deported as a result of raids or anti–trafficking initiatives.
- **Invest in sex worker–led groups and programs.**
- **Develop any other legislation proposed to address sex work in consultation with sex workers**, recognizing the diversity of sex workers' opinions and experiences, and putting sex workers' human rights at the forefront.

## FACTS AND FIGURES

- In 2013, the Supreme Court of Canada struck down *Criminal Code* prohibitions on prostitution as unconstitutional because they undermined sex workers' health and safety. The following year, the federal government passed the so-called *Protection of Communities and Exploited Persons Act* (PCEPA), re-introducing many of the very harms the Court had struck down.
- A systematic review and analysis of studies involving sex workers showed that in decriminalized settings, sex workers report greater negotiating power with clients and better access to justice and health.
- A 2015 study of HIV among female sex workers suggested that decriminalizing sex work across all settings would avert 33–46% of new HIV infections in the next decade.

## CASE STUDY

### The Perils of “Protection”: Sex Workers’ Experiences of Law Enforcement

In 2018, with the support of the Law Foundation of Ontario, the HIV Legal Network interviewed sex workers and expert informants across Ontario about their experiences of law enforcement in the context of their sex work since December 6, 2014 (when the PCEPA became law). Sex workers described increasingly pervasive, unsought, and disproportionate surveillance from law enforcement officers, who employ an array of criminal, immigration, human trafficking, and municipal laws to monitor, harass, interrogate, detain, ticket, criminalize, and deport sex workers. Sex workers also reported a range of abuses at the hands of law enforcement, including assault, intimidation, threats, and harassment. Racialized, migrant, and trans women bore the heaviest burden of this profiling, yet were routinely positioned outside the reach of assistance in times of actual need.

As a result, sex workers perceive law enforcement as an ongoing threat and source of danger. To evade and mitigate these harms, sex workers reported changing their ways of working, including by working in unfamiliar and secluded areas, in social isolation, and with unknown risks — with wide-ranging negative impacts to sex workers’ safety, security, and health.

Sex workers’ experiences highlighted the harmful impact of laws and policies that empower law enforcement to repress sex workers and the urgent need to repeal these laws. Following its release, the report was distributed to policy makers to heed sex workers’ calls for action.

## KEY RESOURCES

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- Canadian Alliance for Sex Work Law Reform, *Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada*, March 2017. Available at <https://sexworklawreform.com/recommendations/>.
- Canadian HIV/AIDS Legal Network, *The Perils of “Protection”: Sex Workers’ Experiences of Law Enforcement in Ontario*, 2019.
- Global Commission on HIV and the Law (UNDP HIV/AIDS Group), *HIV and the Law: Risks, Rights & Health*, July 2012.
- A. Krüsi et al. “Criminalisation of clients: reproducing vulnerabilities for violence and poor health among street-based sex workers in Canada — a qualitative study,” *BMJ Open* 4,6 (2014).
- A. Krüsi et al., “‘They Won’t Change It Back In Their Heads That We’re Trash’: The Intersection of Sex Work Related Stigma and Evolving Policing Strategies,” *Sociology of Health & Illness* (April 26, 2016).
- E. Lam, *Behind the Rescue: How Anti-Trafficking Investigations and Policies Harm Migrant Sex Workers*, Butterfly Asian and Migrant Sex Workers Support Network, June 2018.
- L. Platt et al., “Associations between sex work laws and sex workers’ health: A systematic review and meta-analysis of quantitative and qualitative studies,” *PLoS Med* 15, 12 (2018): e1002680.
- Sex Workers United Against Violence, Pivot Legal Society, and Gender and Sexual Health Initiative, *My Work Should Not Cost Me My Life: The Case Against Criminalizing the Purchase of Sexual Services in Canada*, 2014.
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