

---

For immediate release

## **COMMONS REPORT ON PROSTITUTION FAILS SEX WORKERS**

*Criminalization leaves women working in unsafe conditions*

**TORONTO, December 13, 2006** — The Canadian HIV/AIDS Legal Network slammed a new report from the House of Commons Subcommittee on Solicitation Laws, saying it falls far short of the measures required to ensure the health, safety and human rights of sex workers.

“After hearing the testimony of sex workers and sex worker organizations, the Subcommittee had a chance to make informed recommendations on how to modernize Canada’s outdated laws on prostitution,” said Joanne Csete, Executive Director. “Instead, what we have is a report, years in the making, that does too little to protect sex workers or to promote their dignity and equality.”

The Subcommittee’s report, released earlier today, makes seven recommendations, none of which decriminalize sex work or protect the human rights of sex workers.

A 2005 Legal Network report documented how existing laws, and the way in which they’re enforced, push sex workers into situations that put their health and safety at risk, and leave them open to stigma and discrimination, violence, and possible exposure to HIV. For example, criminalizing acts of prostitution puts sex workers under constant threat of arrest, meaning they often do not have time to assess the risk of taking a particular client or to negotiate terms (like insisting on safe sex). Criminalization also pits police and sex workers against each other, effectively alienating sex workers from the protective services of police if, for example, a client becomes aggressive or violent.

The Legal Network is calling on the federal government to fulfill its responsibility to uphold sex workers’ human rights by:

- Protecting sex workers’ rights under the *Canadian Charter of Rights and Freedoms* and international human rights law by repealing the four *Criminal Code* sections that make “communicating,” “bawdy-houses” and “living on the avails” illegal; and

- Recognizing sex work as work under employment standards and occupational health and safety laws.

These are just two of the ten recommendations in *Sex, work, rights: reforming Canadian criminal laws on prostitution*, a report released one year ago by the Legal Network.

“We need to decriminalize sex work and recognize it as legitimate work,” said Csete. “Only then will sex workers, especially women, be able to legally take steps to make their working conditions more safe and secure.”

For more information, please see the attached backgrounder or visit [www.aidslaw.ca/sexwork](http://www.aidslaw.ca/sexwork).

### **About the Canadian HIV/AIDS Legal Network**

The Canadian HIV/AIDS Legal Network ([www.aidslaw.ca](http://www.aidslaw.ca)) promotes the human rights of people living with and vulnerable to HIV/AIDS, in Canada and internationally, through research, legal and policy analysis, education, and community mobilization. The Legal Network is Canada’s leading advocacy organization working on the legal, ethical and human rights issues raised by HIV/AIDS.

– 30 –

**Attention News/Assignment Editors:** The House of Commons Subcommittee on Solicitation Laws has scheduled a press conference today at 4:15 p.m. ET in Ottawa.

For more information, please contact:

*Disponible en français*

Leon Mar  
Director of Communications  
Telephone: +1 416 595-1666 ext. 228  
E-mail: [lm@aidslaw.ca](mailto:lm@aidslaw.ca)

# Backgrounder Document d'information

December 13, 2006

## **“BAWDY-HOUSE,” “LIVING ON THE AVAILS” AND “COMMUNICATING” PROVISIONS OF CANADA’S *CRIMINAL CODE***

Prostitution means exchanging sex for money. Prostitution is legal in Canada and it is legal to be a sex worker, but it’s nearly impossible for sex workers to practice prostitution without breaking the law and risking criminal charges.

Four sections in the *Criminal Code* make almost every activity related to prostitution illegal and prohibit prostitution in almost every public or private place:

- Section 210 outlaws what are called “common bawdy-houses.”
- Section 211 makes it illegal to take or direct a person to a bawdy-house.
- Section 212 prohibits “procuring” prostitution or “living on the avails” of prostitution.
- Section 213 outlaws “communicating in public for the purposes of prostitution.”

### **“Bawdy houses”**

The *Criminal Code* says a “common bawdy-house” is any place that someone keeps or occupies for the purpose of prostitution.

Bawdy-houses could include sex workers’ homes, hotels, massage parlours, or even parking lots and cars.

The bawdy-house laws force sex workers to make a difficult choice. If a sex worker wants to work indoors in a place where they have more control over their own safety, they risk being charged under the bawdy-house laws. If they choose to do out-calls or work on the street, this usually means giving up control over their working situation — and in the case of working on the street, they risk being charged with “communicating in public for the purposes of prostitution.”

### **“Procuring” and “living on the avails”**

The sections of the *Criminal Code* that prohibit procuring and “living on the avails of prostitution” make it hard for sex workers to work in ways that promote their safety and can make some of sex workers’ personal relationships criminal.

“Procuring” makes it illegal for a sex worker to refer a client to another sex worker, to arrange to have another sex worker join him or her with a client, and to allow other sex workers to use his or her home for prostitution. This can make it difficult for sex workers to work together for their own safety.

The *Criminal Code* says that anyone who regularly spends time with a sex worker and who is supported by the sex worker is assumed to be “living on the avails of prostitution.” It is up to that person to prove that he or she is not living “parasitically” off the money the sex worker makes. This can cast the shadow of possible criminal charges over a sex worker’s partner, family members, roommates or friends.

### **“Communicating”**

The “communicating” offence became law in 1985, replacing the previous offence of “solicitation.”

In 1985, Parliament outlawed “communicating in public for the purposes of prostitution.” This essentially makes it illegal for a sex worker to work in a public place, since they can be arrested for talking to a client on the street, in a bar, or anywhere that is a public place. Since a sex worker risks arrest if the police catch her or him communicating with a client in public, sex workers are often forced to move to darker, more remote areas, like industrial areas or parks, where there are few people to turn to for help if a client or predator becomes aggressive or violent.

Since Parliament outlawed “communicating” 20 years ago, over 90 percent of prostitution-related charges have been brought under this section of the *Criminal Code*. During the same period, the murder and disappearance of sex workers in Canada has escalated.

– 30 –

For more information, go to  
[www.aidslaw.ca/sexwork](http://www.aidslaw.ca/sexwork) or contact:

*Disponible en français*

Leon Mar  
Director of Communications  
Telephone: +1 416 595-1666 ext. 228  
E-mail: [lmr@aidslaw.ca](mailto:lmr@aidslaw.ca)