

DECRIMINALIZE SEX WORK: SUPPORT RESOLUTION #2764

Open Letter to the Liberal Party of Canada



Canadian
HIV/AIDS
Legal
Network

Réseau
juridique
canadien
VIH/sida

Canadian Alliance for
Sex Work Law Reform

Alliance Canadienne pour
la Réforme des Lois sur
le Travail du Sexe

March 2018

It is now well recognized, not just by sex workers but by a wide range of human rights organizations including Amnesty International, Human Rights Watch, the Global Alliance Against Traffic in Women, and the Center for Health and Gender Equity, United Nations bodies such as the UN Development Programme, the Joint UN Programme on HIV/AIDS, and the Global Commission on HIV and the Law, and courts that punitive laws and policies governing sex work, including the criminalization of some or all aspects of sex work, lead to numerous violations of sex workers' human rights.

In a welcome ruling in December 2013 (*Canada (Attorney General) v. Bedford*, 2013 SCC 72), the Supreme Court of Canada unanimously struck down several sections of Canada's *Criminal Code* dealing with "prostitution" as unconstitutional because they unjustifiably endangered the lives and safety of sex workers.

The federal government responded by enacting the *Protection of Communities and Exploited Persons Act*, defining all sex work as exploitation, criminalizing sex workers, clients and third parties involved in sex work (such as managers, security, receptionists and drivers), and re-inscribing many of the very harmful laws the Supreme Court had found unconstitutional.

Yet numerous studies have concluded that banning the purchase of sexual services has contributed to violence against sex workers, who are forced to work in isolation and in clandestine locations, and to rush negotiations with potential clients for fear of police detection.¹ In Canada, research has demonstrated that police targeting clients and third parties rather than sex workers has not affected rates of violence against sex workers or enhanced sex workers' control over their sexual health,² nor has it immunized them from the consequences of criminalization; many are still detained, held for questioning, deported and over-policed. By facilitating the removal of sex workers from public spaces, such tactics have merely perpetuated labour conditions that subject sex workers to greater risk of violence and poor health.³

The criminalization of third parties who work with or for, or employ sex workers also forces sex workers to work in isolation, away from social support networks and without proven safety mechanisms, a finding confirmed by the Supreme Court of Canada in *Bedford*. Evidence has demonstrated the role of safer work environments and supportive housing through supportive managerial and venue-based practices, which allow sex workers to work together and promote access to health and support services, in reducing violence and HIV risks among sex workers.⁴ Very often, sex workers are also third parties when they are not themselves selling sex.⁵ A legal framework that subjects all third parties to criminal sanction without evidence of abuse or exploitation does not promote sex workers' health and safety. Instead, it perpetuates labour exploitation and deters sex workers from the criminal justice system when they experience violence, because they may fear that they or their employer may be charged with prostitution-related offences.⁶ Migrant sex workers, in particular, are reluctant to seek help from police for fear of deportation.⁷

In 2015, the Liberal Party of Canada [responded to a questionnaire](#) posed by the Canadian HIV/AIDS Legal Network to each of the major federal parties during the federal election on the issue of sex work as follows:

With Bill C-36, the Conservative government passed legislation that fails to comply with the Supreme Court of Canada's decision in the Bedford case, namely providing adequate protections for the health and safety of vulnerable people, particularly women. **That is why the Liberal caucus opposed the bill in Parliament, and a Liberal government is committed to replacing this flawed, unconstitutional legislation.**

We believe that the Conservatives' bill makes sex workers more vulnerable and prone to exploitation. While the Conservative government insists that it is concerned with the welfare of these individuals, they have resisted calls to detail exactly how the additional \$20 million pledged in Bill C-36 will actually help sex workers transition to other work. The Conservatives failed to produce any evidence that they sought legal opinions in drafting C-36 and continue to refuse to release this information.

A Liberal government will deliver on prostitution reforms laws formed in consultation with experts and civil society, including sex workers themselves, which includes rigorous examination of supporting facts and evidence. [emphasis added]

Despite the stated commitment to replace the *Protection of Communities and Exploited Persons Act* and to "deliver on prostitution reforms," the Liberal Party of Canada has yet to take meaningful steps to repeal the act. Sex workers, clients and third parties continue to be criminalized and sex workers are forced to work in precarious situations without labour protections.

Therefore, we are encouraged to see the policy resolution on “Decriminalization of Consensual Sex Work and Sex Trade (#2764)” calling for the repeal of the *Protection of Communities and Exploited Persons Act* and the decriminalization of sex work, including the purchase of sex.⁸ All sex workers and people who sell or trade sex are entitled to human rights, including: the 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.

As sex worker, human rights, legal, health and social justice organizations, **we appeal to the members of the Liberal Party of Canada to uphold the human rights of sex workers by adopting the policy resolution on “Decriminalization of Consensual Sex Work and Sex Trade (#2764) at the upcoming Liberal National Convention in Halifax, and supporting the immediate repeal of the *Protection of Communities and Exploited Persons Act*.**

Signatures:

Canadian Alliance for Sex Work Law Reform
Canadian HIV/AIDS Legal Network
Abortion Rights Coalition of Canada, Vancouver, BC
Action Canada for Sexual Health and Rights, Ottawa, ON
Action Santé Travesties et Transsexuel(le)s du Québec (ASTTeQ), Montréal, QC
AIDS Community Care Montréal, Montréal, QC
Amnesty International Canada, Ottawa, ON
Amnistie Internationale Canada, Montréal, QC
Angel’s Angels, Hamilton, ON
Assaulted Women’s and Children’s Counsellor/Advocate Program (AWCCA), Faculty,
George Brown College, Toronto, ON
Association Québécoise pour la promotion de la santé des personnes utilisatrices de drogues
(AQPSUD), Montréal, QC
BC Civil Liberties Association (BCCLA), Vancouver, BC
BC Coalition of Experiential Communities, Vancouver, BC
BC Humanist Association, Vancouver, BC
Black Lives Matter, Montréal, QC
Butterfly, Toronto, ON
Canadian Institute for Substance Use Research (CISUR), University of Victoria, Victoria, BC
Canadian Labour Congress, LGBTQ2SI Workers, Toronto, ON
Chinese Canadian National Council Toronto Chapter, Toronto, ON
Chinese & Southeast Asian Legal Clinic, Toronto, ON
Clinique Droits Devant, Montréal, QC
Coalition des organismes communautaires québécois de lutte contre le sida (COCQ-SIDA),
Montréal, QC
Crossroads, Edmonton, AB
Downtown Eastside Sex Workers United Against Violence (SWUAV), Vancouver, BC
Egale Canada Human Rights Trust, Toronto, ON
Émissaire, Longueuil, QC

Signatures (continued):

Families of Sisters in Spirit (FSIS), Ottawa, ON
FIRST Decriminalize Sex Work, Vancouver, BC
Gender and Sexual Health Initiative, Vancouver, BC
Global Alliance Against Traffic in Women, International Secretariat
Groupe d'Intervention Alternative par les Pairs (GIAP), Montréal, QC
Head and Hands, Montréal, QC
HIV & AIDS Legal Clinic Ontario, Toronto, ON
HIV Community Link, Shift Program, Calgary, AB
Iskweu Project, Native Women's Shelter, Montréal, QC
Jane Paul Indigenous Women's Resource Centre, Sydney, NS
La Fédération du Québec pour le planning des naissances (FQPN), Montréal, QC
Maggie's Indigenous Sex Work Drum Group, Toronto, ON
Maggie's, Sex Workers Action Group, Toronto, ON
Migrant Sex Workers Project, Toronto, ON
New Hope Society, Prince George, BC
No More Silence, Toronto, ON
No One Is Illegal, Toronto, ON
Options for Sexual Health, Vancouver, BC
PACE Society, Vancouver, BC
PEERS, Victoria, BC
Pivot Legal Society, Vancouver, BC
Portail VIH, Montréal, QC
Positive Living Society of British Columbia, Vancouver, BC
Prisoners with HIV/AIDS Support Action Network (PASAN), Toronto, ON
Projet d'intervention auprès des mineur.e.s prostitué.e.s (PIAMP), Montréal, QC
Projet Lune, Québec, QC
Projet Vénus, Laval, QC
Prostitutes Involved Empowered Cogent Edmonton (PIECE), Edmonton, AB
Rézo, projet travail du sexe, Montréal, QC
Safe Harbour Outreach Project (S.H.O.P.), St John's, NL
Safe Space, London, ON
Sault Ste. Marie Sex Workers' Rights, Sault Ste. Marie, ON
Sex Professionals of Canada (SPOC), Toronto, ON
Sex Work Advisory Network of Sudbury (SWANS), Sudbury, ON
Sex Workers Allies and Friends, Edmonton, AB
Sex Workers of Winnipeg Action Coalition, Winnipeg, MB
Showing Up for Racial Justice, Toronto, ON
SOLID Outreach Society, Victoria, BC
Stella, l'amie de Maimie, Montréal, QC
Stop the Arrests!, Sault Ste. Marie, ON
Streetworks, Edmonton, AB
Strut!, Toronto, ON
Supporting Women's Alternatives Network (SWAN), Vancouver, BC
The Ally Centre of Cape Breton, Cape Breton, NS
Victoria Sexual Assault Centre, Victoria, BC
West Coast Cooperative of Sex Industry Professionals (WCCSIP), Vancouver, BC
Workers Action Centre, Toronto, ON

Signatures (continued):

Alana Klein, Professor, Faculty of Law, McGill University, Montréal, QC
Annalee Lepp, Professor, Gender Studies, University of Victoria, Victoria, BC
Audrey Macklin, Director, Centre for Criminology and Sociolegal Studies, University of Toronto, Toronto, ON
Chris Bruckert, Professor, Department of Criminology, University of Ottawa, Ottawa, ON
Colette Parent, Professor, Department of Criminology, University of Ottawa, Ottawa, ON
D.T., Trans rights advocate and public educator, Centre for Gender Advocacy, Montréal, QC
Deborah Brock, Professor, Department of Sociology, York University, Toronto, ON
Dolores Chew, Professor, Faculty, Co-coordinator, Liberal and Creative Arts & Social Science Departments, Third World Studies Certificate, Marianopolis College, Westmount, QC
Dominique Bernier, Professeure, Département sciences juridiques, UQAM, Montréal, QC
Emily van der Meulen, Professor, Department of Criminology, Ryerson University, Toronto, ON
Frances Mahon, Barrister & Solicitor, Vancouver, BC
Genevieve Fuji Johnson, Professor, Department of Political Science, Simon Fraser University, Burnaby, BC
Hayli Millar, Associate Professor, School of Criminology and Criminal Justice, University of the Fraser Valley, Abbotsford, BC
John Lowman, Professor, Simon Fraser University, Vancouver, BC
Kamala Kempadoo, Professor, Department of Social Science, York University, Toronto, ON
Kathryn Payne & JP Hornick, Professors, George Brown College School of Labour, Toronto, ON
Kimberley Manning, Professor, Director, Simone de Beauvoir Institute, Concordia University, Montréal, QC
Kyle Kirkup, Professor, Faculty of Law, Common Law Section, University of Ottawa, Ottawa, ON
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Lori E. Ross, Professor, Dalla Lana School of Public Health, University of Toronto, Toronto, ON
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Marie-Ève Sylvestre, Professor, Civil Law Section, University of Ottawa, Ottawa, ON
Michael Goodyear, Professor, Department of Medicine, Dalhousie University, Halifax, NS
Patricia M. Barkaskas, Professor, Academic Director, Indigenous Community Legal Clinic, Peter A. Allard School of Law, The University of British Columbia, Vancouver, BC
Rachel Berger, Professor, Department of History, Concordia University, Montréal, QC
Rebecca Bromwich, Professor, Department of Law and Legal Studies, Carleton University, Ottawa, ON
Robert Leckey, Professor of Law, McGill University, Montréal, QC
Sarah Hunt, Assistant Professor, Kwagiulth scholar, University of British Columbia, Vancouver, BC
Shawna Ferris, Women and Gender Studies Program, University of Manitoba, Winnipeg, MB
Stacey Hannem, Associate Professor and Chair, Department of Criminology, Wilfrid Laurier University, Waterloo, ON
Tamara O'Doherty, School of Criminology, Simon Fraser University, Burnaby, BC
Véro Leduc, Professeure, Département de communication social et publique, UQAM, Montréal, QC
Viviane Namaste, Professor, Simone de Beauvoir Institute, Concordia University, Montréal, QC

Endnotes

¹ See, for example, J. Levy and P. Jakobsson, “Sweden’s abolitionist discourse and law: Effects on the dynamics of Swedish sex work and on the lives of Sweden’s sex workers,” *Criminology & Criminal Justice* 1–15 (March 31, 2014); P. Östergren and S. Dodillet, “The Swedish Sex Purchase Act: Claimed success and documented effects,” paper presented at the International Workshop: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges, The Hague, Netherlands, March 3–4, 2011; and U. Bjørndah, *Dangerous Liaisons: A report on the violence women in prostitution in Oslo are exposed to*, Municipality of Oslo, 2012.

² 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 (2014): e005191; 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.

³ 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).

⁴ K. Shannon et al., “Global epidemiology of HIV among female sex workers: Influence of structural determinants,” *Lancet* 385:9962 (2015): pp. 55–71.

⁵ C. Bruckert and T. Law, *Beyond Pimps, Procurers, and Parasites: mapping third parties in the incall/outcall sex industry*, 2013.

⁶ Canadian Alliance for Sex Work Law Reform, *Pimps, Managers and Other Third Parties: Making Distinctions Between Third Parties and Exploitation*, 2014.

⁷ C. McIntyre, “Migrant sex workers caught up in Ottawa sting facing deportation, further exploitation: activists,” *National Post*, May 13, 2015. Available at <http://news.nationalpost.com/news/canada/migrant-sex-workers-caught-up-in-ottawa-sting-facing-deportation-further-exploitation-activists>.

⁸ **WHEREAS:**

the current *Protection of Communities and Exploited Persons Act*, which prohibits the purchasing of sex, does little to protect sex workers and instead pushes them to work underground and in dangerous conditions;

the current prohibition of buying consensual sex work does not address the underlying issues that make sex work dangerous, but rather creates a climate that makes sex workers unlikely to work with the police and be involved with more serious crimes;

BE IT RESOLVED the Liberal Party of Canada repeal the 2014 *Protection of Communities and Exploited Persons Act*, begin a consultation period with those in the sex work industry and advocacy groups, and move to decriminalize consensual sex work, and the purchase of said sex work, for those over the age of 18;

BE IT RESOLVED the Liberal Party of Canada consult not just with those involved in the sex work, but with surrounding communities to ensure that these changes ensure the safety and wellbeing of these surrounding communities and their families;

BE IT FURTHER RESOLVED that along with decriminalization the Liberal Party of Canada should look to address the true problems facing sex workers by working to increase their access to sexual health clinics, counseling and improve their relationship with local authorities.