

Shannon, Bruckert & Shaver: Canada must set sex workers free nationalpost.com




The unanimous decision by the Supreme Court of Canada in the Bedford case last December was a very clear: the current criminalization regime is not only ineffective at protecting sex workers but is having devastating consequences on sex workers' safety, health and human rights.

Jesse Kline: The wrong way to deal with prostitution

In December, the Supreme Court of Canada handed down a landmark ruling that could end up giving Canadians more freedom, and make life much safer for sex workers.

But even before the ink had dried on the decision that upheld an Ontario Superior Court ruling, which struck down many of this country's prostitution laws, Peter MacKay released a statement asserting that the government was "exploring all possible options to ensure the criminal law continues to address the significant harms that flow from prostitution to communities, those engaged in prostitution and vulnerable persons."

Since then, the government has been consulting with Canadians about how to craft a new prostitution law (the court gave the government until December 2014 before sections of the current law become invalid). But as the National Post's John Ivison recently reported, "the submission that is likely to carry most weight comes from the Conservative party itself."

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As the Global Commission on HIV and the Law so aptly stated: "the law is the torturer's fist or the healer's hand." The law is a powerful tool to reduce global social and health inequities and ensure human rights for all, but it is also a dangerous weapon with which to limit the rights of marginalized populations in the name of "social morality" or "public nuisance." Canada's Charter of Rights and Freedoms stands as a model for ensuring laws uphold rights afforded to all citizens, including rights to security, liberty and equality.

In an open letter sent to all Canada's MPs and federal political parties this week, more than 300 of our fellow Canadian and international academics and researchers expressed their profound concern that the federal government is blatantly ignoring a large body of scientific evidence from Canada, Sweden, Norway and other countries that criminalization of any aspect of sex work, including the purchasing of sex, has overwhelmingly negative harms to sex workers' safety, health and human rights.

Within weeks of the Supreme Court of Canada decision, the federal government made clear their plans to introduce new legislation that would criminalize the purchasing of sex. Often referred to as the “Swedish” or “Nordic” Model, banning the purchasing of sex is not scientifically grounded and sorely misguided by moral judgment of sex workers as victims. In fact, evidence strongly suggests that this approach would recreate the same social and health-related harms of current criminalization regime to sex workers and communities. Where sex work operates within a criminalized and policed environment — whether targeting sex workers, their working conditions, their clients or third parties — sex workers are at increased risk of violence, abuse, HIV infection and other health and social harms.

Since the Communication Law was enacted in Canada in 1985 to reduce “public nuisance,” the number of sex workers who have gone missing and been murdered in Canadian cities has escalated dramatically, with disproportionate numbers of First Nations women. The Supreme Court of Canada identified client screening as one of the most vital tools available to sex workers to protect their safety and health. In Sweden and Norway, where laws criminalize the purchasing of sex, research has shown that enforcement targeting clients still forces sex workers to operate in clandestine locations to avoid police, increases their insecurity, and places them at continued and increased risk for violence, abuse and other health-related harms. A report commissioned by City of Oslo in Norway in 2012 found that the rate of strangulation and threat with a deadly weapon of sex workers had increased substantially in the three years since the implementation of the criminalization of clients.

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Contrary to recent assertions, there is no evidence that criminalizing the purchasing of sex reduces or eliminates prostitution, but rather pushes the industry further underground.

Criminalization of any aspect of sex work, including the purchasing of sex, has also been shown to undermine access to critical social, health and legal protections for sex workers, a key factor in the decision by the Supreme Court of Canada. In the official evaluation of the ban on purchasing sex in Sweden, sex workers clearly reported that the law increased police scrutiny, stigma and discrimination, and deterred reporting to police. In contrast, the New Zealand Prostitution Reform Act (2003) placed the human rights and occupational health and safety of sex workers as the central goal of their law reform; and government’s own evaluation showed sex workers were significantly more likely to report abuse to authorities following decriminalization.

New Zealand provides a critical evidence-based example of decriminalization of sex work from which we can learn from and adapt to Canada

Decriminalization of sex work has been endorsed by major international policy bodies, including the World Health Organization, UNFPA, UNAIDS and the Global Commission on HIV and the Law. New Zealand provides a critical evidence-based example of decriminalization of sex work from which we can learn from and adapt to Canada. The New Zealand government’s own evaluation and independent research have demonstrated improved health and safety for sex

workers and communities.

After two decades of evidence of the devastating consequences of Canada's prostitution laws on the safety, health and human rights of sex workers, it is time for the federal government to meaningfully consult with experts: first and foremost those most affected by these laws, sex workers, as well as research and human rights experts. Anything less is unacceptable.

National Post

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