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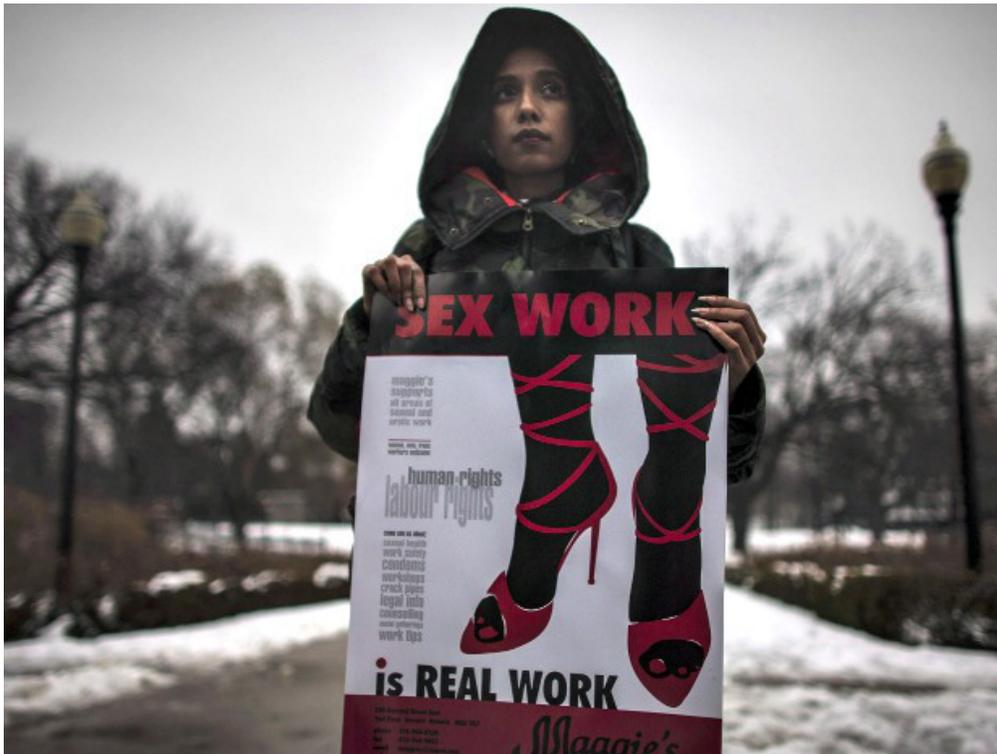
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## Wayne K. Spear: For smart prostitution laws, ask a prostitute



WAYNE K. SPEAR | February 19, 2014 11:53 AM ET  
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THE CANADIAN PRESS/Mark Blinch

Here's how I imagine it working. The Supreme Court of Canada has declared three Criminal Code provisions unconstitutional, giving the government one year to re-draft its prostitution law. The Conservatives think their law is just dandy, and they figure that if they game a consultation by offering Canadians loaded and leading questions, then on paper Canadians will appear to agree. The Minister of Justice, Peter MacKay, has already put the wheels on this travelling outfit of his: he wants to hear about your values.

Clarity and consistency are values, right? Judges love them, and they've noted that these values have yet to find their way into Canada's bizarre prostitution legislation. Bizarre? The Criminal Code says quite clearly (wink) that it's okay to provide sex as a commercial service: establishing a place in which to do so, communicating to others that such a place exists, and knowingly transporting a person to that place are illegal. That's as clear and consistent as a legal BLT made up of outlawed bacon, lettuce and tomato.

This BLT analogy is good enough to make the simple point that the law is an ass. But our attitudes about sandwiches are not at all like our attitudes toward sex, which like religion occupies a hot-button universe of its own. When the values polling is done, Minister MacKay will have heard from a good many folks with strong opinions and feelings about women who rent out their bodies and the

men who do the renting. It's an emotional issue. Most of us have had a BLT, or know someone who has. Will the Justice Minister be flooded with the views of people who count prostitutes among their closest friends? Will first-hand knowledge of the issues drive and inform future legislation? How informed are we, as opposed to how informed do we think we are? Values are an important and necessary starting point for a discussion of public policy, to be sure, but they are only one element of policy. Given that vulnerable lives are going to be affected, the feds are going to need to come up with a solid policy that has something more beneath it than our deeply-held touchy feelies.

## To work, legislation requires a comprehensive and deep understanding of the real-world conditions within which the buying and selling of sex takes place.

It's worse even than that. As the [Sex Professionals of Canada](#) point out on their web site, ordinary folk harbour many misconceptions and prejudices about sex workers. The pedigree of our attitudes is best suggested by the Dickensian, if not Chaucerian, language we employ. Who uses the word "bawdy" anymore, other than professors of English Restoration theatre and the lawyers who drafted the Criminal Code? According to Sex Professionals of Canada's [Valerie Scott](#), "the thing here is politicians, though they may know us as clients, they do not understand how sex work works." This quotation nicely underscores the hypocrisy that forever attends the topic of prostitution, while reminding us how we got our bizarre laws in the first place.

I would not argue that every opponent of legalized prostitution is a repressed and desiccated prude, or that a laissez-faire approach to the subject is a certain indicator of enlightenment. Any poll is likely to show that most of us are somewhere in the practical, middle road, neither with the libertarians nor the law-and-order traditionalists. Within this broad camp, the object is to craft a credible law, one that balances public order and safety with the established and unyielding fact of commercialized sex. The Criminal Code puts emphasis on predators and exploiters – the parasites who coerce and cajole the young into sexual and economic bondage – and few would dispute that this is a piece of necessity. It's uncontroversial that the sex trade attracts and comprises dirt bags who must be dealt with in the most unsentimental terms.

So, yes, values by all means – beginning with the value of the lives of women. The law should provide terms and tools for prevention of abuses, for safety, and for the dignity of sex workers who undertake an occupation of unique character. As for the larger question of whether prostitution should even be legal, *Canada v. Bedford* (which derives its name from the former dominatrix Terri-Jean Bedford) leaves the question entirely untouched. The legal challenge – issued by Bedford, Amy Lebovitch and Valerie Scott – has yielded a Supreme Court judgement only on the constitutionality of the law. Its moral character is another question entirely, but until this matter is formally arbitrated Canada is going to have murky and untenable legislation of the kind recently struck down.

Is sex work inherently and irredeemably wicked, as the abolitionists would have us conclude? Or is it in fact possible to have a morally defensible prostitution? A compilation of public values alone will not answer these questions, assuming they are even answerable. The much-noted Nordic principles of Swedish legislation do however suggest how one might reconcile values and law, adopting a nuanced and practical middle-way as well as a circumspect approach. The Swedish model attempts to alleviate the social root causes which lead to economic conscription and criminalizes only the undesirable elements of the sex trade. Unlike Canada's laws, Swedish legislation does not tend toward an environment in which sex workers are viewed with contempt and regularly harassed by police, thereby pushed into the dark corners where danger invariably lurks.

I mention Sweden because the Nordic principles do strike me as a clear and cogent expression of values. They attempt to prosecute the things most people find reprehensible, for instance human trafficking and exploitation. They attempt to reduce, as much as possible, the number of people selling sex on account of economic factors like poverty and desperation. They appear to operate from the presumption that yes, prostitution is wrapped up in a lot of attendant nastiness, and perhaps given thoughtful and proactive measures one can scrub away a measure of this nastiness. To work, however, this pragmatic approach requires a comprehensive and deep understanding of the real-world conditions within which the buying and selling of sex takes place. In practice this means not only taking account of values, but listening to and understanding the needs and perspectives and day-to-day realities of the women

who are most affected – and who should therefore lead the way.

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Charles\_BCCA · 14 days ago

Smart law for prostitution would be no law. ZERO, NADA. What prostitutes need is being treated like any other professional with dignity and respect. They provide far more useful service than all the religious zealots combined. How about that homosexual prostitution ring operating in Vatican with Pope's blessings. Who do they provide services to if not to Bishops, Cardinals and Pope?

4 ^ | v · Share



HRoth · 14 days ago

The libertarian position isn't that bad. One of the most popular forms of entertainment in North America is boxing. There is a fair

amount of evidence that the game is very exploitive from the point of view of the boxers. Yet we don't call the managers "pimps" or send them to jail. We seem to assume they add some value to the game. Well, i don't know much about the prostitution business (was a consumer on occasion 3 to 4 decades ago in Europe) or boxing, but i doubt the 'pimps' are merely exploitive. That too perhaps. I'm guessing they provide some management "added value". Maybe protection, rides to places where the cops aren't working the area, maybe comfort on a bad and rainy night. Maybe smuggling gals from poorer places to more lucrative places given immigration constraints. Maybe that's exploitive and maybe a good deal for some of the ladies calculating their costs, benefits and risks. Let the provinces regulate the industry based on zoning, housing and health care laws. The provinces also have strict employer/employee rules which might limit extremes of exploitation. That's probably all we need.

3 ^ | v · Share ›



**1\_quibono** → HRoth · 14 days ago

That's an analogy that works (the boxer, that is).

^ | v · Share ›



**DannyZeta** · 14 days ago

"Sex workers, our organisations and many international organisations, including World Health Organisation and UNAids have spoken about the detrimental effects of the criminalisation of our clients. Not only this repressive measure has been ineffective in its main aim (reducing prostitution) but it has also led to an increase in stigma and discrimination which are the root causes of violence against sex workers.

We also condemn the lack of evidence and research sustaining this report. Policies and resolutions, particularly those affecting vulnerable communities should be based on evidence and serious research, not on flawed methodology and ideology. Using biased statistics and debunked researches, instead of consulting us and our organisations, is a form of contempt and silencing. We will not accept this."

<http://www.sexworkeurope.org/n...>

3 ^ | v · Share ›



**Moe Sizlak** · 14 days ago

Its 2014, if anyone still thinks that theres not enough outreach for troubled women than they are severely mis-informed and lived under a rock. There are numerous way for women who are subjected to physical/sexual abuse to obtain support; the argument that prostitution subjects women to abuse is total BS today. They have a options, they have ways to get help and protection from danger. If women are prostituting themselves, and fight to have restrictions lifted --then so be it! Let them do as they wish, its their body, its their choice. Why do we have to come up with legislation to protect people who don't perceive any danger? We need to stop wasting time with this.

2 ^ | v · Share ›



**Sue McPherson** → Moe Sizlak · 14 days ago

At this point, prostitutes have what they want. If the people don't speak out, who knows how it will end up - re brothels, the sale of sex on the street corners, and so-called legitimate jobs in the field of prostitution.

^ | v · Share ›



**ToadMan** · 14 days ago

As Isaac Asimov famously said "Never let your sense of morals prevent you from doing what is right."

This maxim is something Parliament should take to heart as to formulates new legislation.

2 ^ | v · Share ›



**David W. Lincoln** · 14 days ago

Why not ask Victor Malarek as well? His books, "The Natasha's" and "The John's" shine light on power struggles that some do not want to see.

1 ^ | v · Share ›



**1\_quibono** · 14 days ago



One cannot legislate human nature. Humans want sex. Well, men want sex, and women are willing to barter for it. There are rules governing who gets sex, when and why. Money (and all its attendant benefits) and security (safety for kith and kin) are the primary reasons. Facts are facts.

1 ^ | v · Share ›



**ambrose999** · 14 days ago

Opposition to prostitution comes from both left and right. From the left, the grounds are exploitation of women and sexism; on the right, the grounds are sexual prudery.

Well, women are often more exploited in work not related to sex, and the sexual prudes don't seem to be demanding a ban on the advertising industry which uses sex to sell products.

1 ^ | v · Share ›



**Sue McPherson** · 14 days ago

I don't think this makes it all that clear. Three laws about prostitution have been overturned and are ready to make into law. We have one year to make sure what we want, as Canadians, not as prostitutes

Wayne Spear says "The Criminal Code says quite clearly (wink) that it's okay to provide sex as a commercial service: establishing a place in which to do so, communicating to others that such a place exists, and knowingly transporting a person to that place are illegal."

Those are the things that will be made legal, if nothing is done to the now new present laws. In fact, they are legal, and the gov't has one year to make changes.

Brothels are legal. Places can be set up - I don't know what the guidelines are - but they are allowed to have brothels.

There is a website on which to make suggestions, as mentioned, at <http://www.justice.gc.ca/eng/c...>, to read up on it all. Prostitutes are now legally allowed to stand on a street corner selling their wares. And they can hire chauffeurs to take them around.

One thing that concerns me is where the brothels will be set up, and if they have to be permanent or can they shift from one neighbourhood to another overnight (or overday). I have read how Terri Bedford, dominatrix, speaks about adults should be able to do this in the privacy of their own bedroom - or their own home. But when does a home become a place of business, and is a bedroom really a bedroom if money is exchanged for sex within it?

I have sided with the Nordic model as I cannot perceive of a better alternative. Making the buying of sex illegal for the men while legal for the women selling it is the only way, as I see it.

^ | v · Share ›



**1\_quibono** → Sue McPherson · 14 days ago

The concern raised in your second to last paragraph might be addressed by city zoning bylaws.

The better alternative that you can't perceive is this: Not even you, Sue, can legislate human nature and make it stick. So don't try. Make it safe, open and available. After all, every advertising exec understands that sex sells.

1 ^ | v · Share ›



**Sue McPherson** → 1\_quibono · 14 days ago

So every city has now to deal with this on its own? Whenever I talk about things sexual in comments' sections of the London Free Press what I say is not well-accepted. See on my blog, London City Council: controversies relevant to the 2014 election, Jan 19, 2014:

<http://suemcpherson.blogspot.c...>

I'm not trying to legislate human nature, quibono, in fact, I' usually the one talking about men's sexual needs being due to biology and not their fault, whereas what girls wear and what they do while wearing it isn't biological. It's learned behaviour.

So, no need to try to make me out to be the prude. Unless you are trying to discredit me, which seems a likely

possibility.

As I stated in my comment, I don't want to see women changing the status of their bedrooms according to whether they see themselves at that moment a wife and mother, or a prostitute.

^ | v · Share ›



**1\_quibono** → Sue McPherson · 14 days ago

Good Lord. Discus just put me under moderation for trying to pay you a compliment. Go figure.

^ | v · Share ›



**Sue McPherson** → 1\_quibono · 14 days ago

You were in on the George Jonas Abortion discussion, weren't you. I remember you.

^ | v · Share ›



**1\_quibono** → Sue McPherson · 14 days ago

Yes.

^ | v · Share ›



**normajeana** → Sue McPherson · 12 days ago

What you say should not be well accepted. It is time for people like you to butt out of other people's lives. Regardless of how you personally feel about the work that someone else does, it really isn't your business. Now, if your husband is hiring sex workers, then what he does IS your business, and you and he need to work that out. Otherwise, your obvious lack of knowledge about our profession makes you uniquely unqualified to make suggestions such as imposing the so called 'Nordic Model' when you have absolutely no understanding of how that 'model' is as harmful to sex workers as complete prohibition.

^ | v · Share ›



**1\_quibono** → Sue McPherson · 14 days ago

I have no interest in discrediting you Sue. I do have an interest in open, engaging discussion. Look, I am the father of two little girls (well, not so little anymore). Per your last paragraph, I don't want that either. Peace.

^ | v · Share ›



**Sue McPherson** → 1\_quibono · 14 days ago

If I seem defensive, it is because I have not yet recovered from, and am still receiving comments about the other discussion yesterday about prostitution - by Bruce Cheadle (Conservative Government . . .).

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**1\_quibono** → Sue McPherson · 14 days ago

I am not up on that. Please understand - I am no conservative apologist. If anything, I am a classical liberal, a la Locke.

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**Sue McPherson** → 1\_quibono · 14 days ago

And yet here you are, discussing what the Conservative gov't is going to do about the changes in laws about prostitution.

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**1\_quibono** → Sue McPherson · 14 days ago

Uhhmmmm... I haven't heard what they are proposing - so I can't comment. From my perspective, we aren't changing human nature so lets make it acceptable and as safe as possible.

Personally, I would not take advantage of legalization/normalization - but that doesn't mean others won't.

Keep it safe and clean.

^ | v · Share ›



**1\_quibono** → 1\_quibono · 14 days ago

(edit) The last thing I heard was they were looking for input and suggestions. Haven't heard of any solid policy position. Regardless, I probably wouldn't like it.

^ | v · Share ›



**normajeana** → Sue McPherson · 13 days ago

Why would you want to criminalize the men who make it possible for women to pay their bills and feed their families? Do you realize how few men who abuse their wives are arrested? Or how many real rapists are apprehended? In the US, in 2012, there were 346,830 REPORTED violent rapes and sexual assaults- but the cops managed to arrest 4.5%- or 15,591 (according to the FBI Bureau of Justice Statistics)... (and there were 411,080 serious incidents of domestic violence, but no stats on how many arrests were made)

I am sure there are similar statistics in your country, because many police departments are underfunded when it comes to pursuing real criminals- but women like you would rather that the non violent, non abusive clients, employers and associates of sex workers be arrested and punished BEFORE those men who abuse their wives, or the rapists whose victims have ASKED FOR HELP? It shows that you really do not care about rape or domestic violence, and are instead stuck on the notion that if we can't punish the women who provide sexual services for a fee, then we must punish men for wanting to pay for sexual services that they could otherwise legally get for free (if they were able to find a willing companion to GIVE away such services.

Links to all statistics mentioned here can be found here: <http://www.policeprostitutiona...>

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**Sue McPherson** → normajeana · 13 days ago

Your comment is just about as confusing to read as this, that the author has written.

Are you saying that men who cannot afford to feed their wives and children are allowing them to prostitute themselves? I don't care how nice they are, sending them out to have sex with men, or bringing men into their home (brothel) to have sex with his wife is abusive.

Criminalize the men's activity is part of the Nordic Model and is meant to dissuade men from using prostitutes.

No, what I say doesn't show I don't care about the victims of domestic abuse, whether male or female. Read: 'Domestic Violence' narratives: the murders of Lois Mordue and Dave Lucio', June 9, 2010:

<http://suemcpherson.blogspot.c...>

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**1\_quibono** · 14 days ago

Just throwing this out there: What about abortions for prostitutes? Wouldn't that be a cost of doing business? And would one be allowed to cut one's losses? Would an abortion be on the public dime? Just wondering what principles will apply here.

^ | v · Share ›



**normajeana** → 1\_quibono · 13 days ago

How many prostitutes do you think don't use some form of birth control when working? How many pregnancies result from giving a 'happy ending' manual release? Or that all time favorite, oral s.ex? Many prostitutes cater to fantasies such as B&D, cross dressing clients, clients with foot fetishes- not to much of a risk of pregnancy there... and this is why allowing people who do not have the slightest idea of how we work to make policy for our work is such a bad idea... but in any case, why would it be necessary for taxpayers to pay for an abortion just because they no longer have to pay for the arrest, prosecution and incarceration for violations of the previous prohibitions relating to safety issues? I would imagine that paying for an abortion would be much cheaper for someone who did accidentally get pregnant, than paying attorney fees, or being unable to work while incarcerated...

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