

AFTER *BEDFORD*: **Developing a health and safety framework for sex workers and Canadian communities.**

Canadian Alliance for
Sex Work Law Reform

*Sex Workers, Organizations and
Individuals Advocating for Sex Workers'
Rights and Community Well-Being*

www.sexworklawreform.com

For more than 30 years, sex workers have been calling on Canada to repeal laws that target sex workers, their clients and the people they work with. This approach — referred to as decriminalization — is a critical step towards creating safer and more equitable societies.

The evidence from Canada and throughout the world is conclusive that criminalization of sex work has the following detrimental effects:

- The sex industry is driven underground where sex workers are unable to control the conditions of their work and are at greater risk of serious violence and exploitative working conditions;
- Sex workers have decreased negotiating power and are less able to clearly communicate their services, insist on condom use and other disease prevention measures;
- There is increased stigma associated with involvement in sex work, which means sex workers experience discrimination, inequality, social exclusion and diminished economic options;
- Sex workers face barriers to health services and social supports;
- Sex workers are unable to access a range of other protections that other workers enjoy, including employment, labour and human rights protections; and
- The relationship between police and sex workers becomes adversarial, making it more difficult for sex workers to access police protection when they are victims of crime and also impacting sex workers ability to support others who may wish to access police protection if they are being abused, trafficked, etc.

The *Bedford* case shifted Canada's legal framework towards decriminalization after recognizing that the criminal laws that prohibit aspect of prostitution increase harm. There are concerns that this shift will result in an absence of criminal laws to address violence and abuse in the sex industry or to address potentially negative impacts of sex work on the communities in which they work. In fact, the *Bedford* decision removed harmful laws that stood in the way of effective protection of individuals in the sex industry and the broader community.

Canada is at a critical juncture. The country has the opportunity to create a legal framework that ensures safe working conditions for sex workers and respects the rights of all Canadians by taking the following steps:

1

Canada's laws provide meaningful protections against violence and exploitative working conditions

Decriminalization will make it possible for sex workers who are victims of crimes, or for those who know that these crimes are taking place, to come forward and engage with law enforcement.

The following provisions are currently in force and offer important protections to individuals in the sex industry and to communities overall:

Protecting sex workers from violence and exploitation: Sex workers are protected from violence and exploitation by a number of general provisions of the Criminal Code, including uttering threats (Section 264.1), intimidation (Section 423), theft (Section 322), robbery (Section 343), extortion (Section 346), kidnapping and forcible confinement (Section 279); bodily harm (Section 269) assault (Sections 265 to 268), sexual assault (Sections 271 – 273), and criminal harassment (Section 264).

2

Create laws that ensure safe working conditions for sex workers.

Canada's prostitution laws have effectively barred sex workers from accessing the rights accorded to workers in other occupations. As a result, sex workers have been particularly vulnerable to exploitative working conditions. Therefore, in addition to the protections that are provided for by the criminal laws listed above, sex workers would greatly benefit from labour and employment protections and health and safety guidelines that improve their working conditions.ⁱ New Zealand took this important step in 2003 and saw many positive outcomes from the decriminalization of the sex industry, including:

- Sex workers experience less violence and find it easier to refuse clients;
- There has been no increase in rates of prostitution;
- Women find it easier to leave prostitution as convictions have been cleared from their records;
- Sex workers (and particularly street-based sex workers) are now more likely to report incidents of violence to the police and other agencies;
- Indoor sex workers' working conditions improved and they gained increased control over their work.

3

Invest in social programs that ensure that all people have meaningful choices and options in their lives

Creating criminal laws that make sex workers vulnerable to violence, depriving them of social and police services and cutting off an accessible source of income is not the way to increase sex workers' economic options. Instead, sex workers who are living in poverty will greatly benefit from access to social and economic supports that deal with the underlying social conditions that constrain their personal and professional choices. These social supports might include adequate financial assistance, safe housing, educational and job training opportunities, health services, drug treatment and harm reduction services, and culturally-appropriate supports for themselves and their families. By making investment in these social programs, the government of Canada will improve the lives of many people, including some who are currently working in the sex industry.

ⁱ Pivot Legal Society. 2006. *Beyond Decriminalization: Sex Work, Human Rights and a New Framework for Law Reform*.