



HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

PREVENTING HARM IN THE CANADIAN SEX INDUSTRY: A REVIEW OF THE *PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT*

**Report of the Standing Committee on Justice and
Human Rights**

Randeep Sarai, Chair

**JUNE 2022
44th PARLIAMENT, 1st SESSION**

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Standing Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website
at the following address: www.ourcommons.ca

**PREVENTING HARM IN THE CANADIAN SEX
INDUSTRY: A REVIEW OF THE *PROTECTION OF
COMMUNITIES AND EXPLOITED PERSONS ACT***

**Report of the Standing Committee on
Justice and Human Rights**

**Randeep Sarai
Chair**

JUNE 2022

44th PARLIAMENT, 1st SESSION

NOTICE TO READER

Reports from committees presented to the House of Commons

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS

CHAIR

Randeep Sarai

VICE-CHAIRS

Hon. Rob Moore

Rhéal Éloi Fortin

MEMBERS

Gary Anandasangaree

Élisabeth Brière

Larry Brock

Michael Cooper

Anju Dhillon

Lena Metlege Diab

Randall Garrison

Yasir Naqvi

Blake Richards

OTHER MEMBERS OF PARLIAMENT WHO PARTICIPATED

Scott Aitchison

Shafqat Ali

Mel Arnold

Michael Barrett

Jaime Battiste

Michael Coteau

Julie Dabrusin

Eric Duncan

Hon. Ed Fast

Philip Lawrence

Alistair MacGregor

Wilson Miao
Kristina Michaud
Rob Morrison
Maninder Sidhu
Arnold Viersen
Sameer Zuberi

CLERK OF THE COMMITTEE

Jean-François Pagé

LIBRARY OF PARLIAMENT

Parliamentary Information, Education and Research Services

Julia Nicol, Analyst

THE STANDING COMMITTEE ON JUSTICE AND HUMAN RIGHTS

has the honour to present its

FOURTH REPORT

Pursuant to its mandate under Standing Order 108(2), the committee has reviewed the Protection of Communities and Exploited Persons Act and has agreed to report the following:

TABLE OF CONTENTS

LIST OF RECOMMENDATIONS	1
PREVENTING HARM IN THE CANADIAN SEX INDUSTRY: A REVIEW OF THE <i>PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT</i>	5
Chapter 1: Introduction.....	5
The <i>Bedford</i> case	6
The <i>Protection of Communities and Exploited Persons Act</i>	9
Chapter 2: Terminology, Agency and Lived Experience.....	9
Recommendation	12
Chapter 3: Reasons for Entering The Sex Trade and Demographics.....	12
Chapter 4: Possible Models.....	15
International Experiences.....	16
Research on the Impact of PCEPA.....	18
Nordic Model – PCEPA.....	19
Criminalizing Clients	25
Criminalizing Advertising	27
Criminalizing Those Who Profit Financially from the Sex Work of Others.....	29
Communicating in Public Places.....	32
Constitutionality of PCEPA	34
Decriminalization	34
Recommendations	37
Chapter 5: Relationship Between Sex Work, Exploitation and Human Trafficking	38
Recommendations	40
Chapter 6: Mistrust of Police.....	40
Recommendation	44
Chapter 7: Implementation and Enforcement.....	44

Recommendation	45
Chapter 8: Indigenous, migrant and Racialized Experiences	45
Indigenous Experiences.....	47
Migrant and Racialized Experiences.....	48
Recommendations	49
Chapter 9: Education and Training.....	50
Public Education	50
Police Training.....	52
Chapter 10: Services and Supports.....	54
Addressing Root Causes.....	54
Supporting Individuals in Sex Work	55
Supporting Individuals Exiting Sex Work.....	56
Recommendations	58
APPENDIX A LIST OF WITNESSES	59
APPENDIX B LIST OF BRIEFS.....	63
REQUEST FOR GOVERNMENT RESPONSE	67
DISSENTING OPINION OF THE CONSERVATIVE PARTY OF CANADA.....	69
SUPPLEMENTARY OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA	73

LIST OF RECOMMENDATIONS

As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.

Recommendation 1

That the Government of Canada ensure that, prior to any amendments to the *Protection of Communities and Exploited Persons Act* or the development of any related programs or policies, extensive consultation is undertaken. 12

Recommendation 2

That the Government of Canada recognize that protecting the health and safety of those involved in sex work is made more difficult by the framework set by the *Protection of Communities and Exploited Persons Act* and acknowledge that, in fact, the Act causes serious harm to those engaged in sex work by making the work more dangerous. 37

Recommendation 3

That the Government of Canada amend the *Protection of Communities and Exploited Persons Act* by introducing legislation to repeal sections 213 and 286.4 of the *Criminal Code*. 38

Recommendation 4

That the Government of Canada continue to monitor court cases pertaining to the provisions of the *Criminal Code* concerning sex work between consenting adults. 38

Recommendation 5

That the Government of Canada encourage data sharing about the sex industry in Canada, and support study into discrepancies in data and conclusions on the topic identified during the Committee’s study. 38

Recommendation 6

That the Government of Canada take action to address issues of exploitation and trafficking of women and children by strengthening other measures in the *Criminal Code* where appropriate, by making additional resources available to victims and to law enforcement agencies working to combat exploitation, and by considering making coercive and controlling behavior in intimate partner relationships a criminal offence as proposed in Bill C-202, An Act to amend the Criminal Code (controlling or coercive conduct), and the unanimous 2021 report of this Committee. 40

Recommendation 7

That the Government of Canada introduce legislation to strengthen the *Criminal Code* provisions on exploitation and human trafficking prior to making any legislative changes aimed at decriminalizing sex work. 40

Recommendation 8

That the Government of Canada identify, share and promote best practices for building trust between police and sex workers so that more sex workers perceive the police as a source of protection and are effectively served by police. 44

Recommendation 9

That the Government of Canada study how more consistent application of the *Protection of Communities and Exploited Persons Act* across the country could be encouraged. 45

Recommendation 10

That the Government of Canada table legislation to repeal sections 183 (1)(b.1). 196.1(a). 200(3)(g.1) and 203(2)(a) of the *Immigration and Refugee Protection Regulations*, which unfairly put migrant sex workers at elevated risk of violence and danger by making them unable to report these incidents without fear of deportation. 49

Recommendation 11

That the Government of Canada consider how to best address the exploitation of migrant sex workers and to prevent findings of inadmissibility and deportation when such individuals report being victims of crime. This could involve amending the *Immigration and Refugee Protection Regulations* or other measures. 49

Recommendation 12

That, prior to any legislative amendments to the *Protection of Communities and Exploited Persons Act*, a gender-based analysis plus be conducted by the Government of Canada to ensure that the most vulnerable sex workers, including Indigenous, migrant, racialized and transgender individuals, will not experience disproportionately negative impacts from any such changes and that their unique needs are addressed. The analysis should be tabled in Parliament and posted publicly. 50

Recommendation 13

That the Government of Canada fully implement Calls for Justice 4.3, 5.3 and 12.14 of the National Inquiry into Missing and Murdered Indigenous Women and Girls..... 50

Recommendation 14

That any legislative changes to the existing provisions on the sale of sexual services be imperatively preceded by agreements between the federal government, Quebec and the provinces and territories to agree on the funding needed for social programs related to sex workers' health and safety..... 58

Recommendation 15

That the Government of Canada invest in and support programs, in collaboration with affected stakeholders including provinces and territories and individuals with lived experience, to address the root causes for entering sex work to make entry into the industry a real choice and to protect the vulnerable..... 58

Recommendation 16

That the Government of Canada provide additional financial support to organizations that provide non-judgmental and trauma-informed services to sex workers, and particularly those operated by sex workers themselves. 58

Recommendation 17

That the Government of Canada invest in and support the provision of additional social and legal supports for vulnerable youth at risk of sexual exploitation and individuals who wish to leave the sex industry, including non-judgmental and trauma-informed mental health and addiction services, vocational and education programs and income supports..... 58



PREVENTING HARM IN THE CANADIAN SEX INDUSTRY: A REVIEW OF THE *PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT*

CHAPTER 1: INTRODUCTION¹

On 8 February 2022, the House of Commons Standing Committee on Justice and Human Rights (the Committee) agreed to conduct a study of Canada’s laws concerning the sale of sexual services between adults and adopted the following [motion](#):

That the committee undertake a comprehensive review of the provisions and operation of the *Protection of Communities and Exploited Persons Act*, which received Royal Assent on November 6, 2014, as mandated in section 45 of the Act; that, due to the sensitive nature of the study, the committee provides adequate mental health support to the witnesses; that the committee hold at least six meetings on this topic; that a report be tabled in the House of Commons; and that the committee request the government table a comprehensive response to the report.

The Committee allocated eight meetings to hear witnesses on this important matter and received 72 briefs, as well as correspondence and reference materials. We heard from individuals with experience with sex work and in other roles in the sex industry, as well as those who experienced exploitation and sex trafficking. We heard from researchers and advocates. We did not hear from clients. The Committee appreciates the expertise and time provided by all witnesses who participated in this study. We gave particular weight to the lived experiences of individuals who are or have been involved in the sex industry, as well as peer-reviewed research and data. We thank, in particular, those individuals who shared very intimate and sometimes traumatic experiences with the Committee to inform our recommendations. We know that parliamentary hearings can be a challenging venue for such sensitive topics and greatly appreciate their participation.

This report summarizes the evidence submitted during the study and presents the Committee’s recommendations. While many witnesses and briefs discussed human trafficking, the Committee’s study was focused on voluntary sex work by adults. [This](#) and

1 Terminology on this subject is contested. Chapter 2 outlines the debates regarding terminology and the reasons the Committee is using certain terms in this report.



other committees have previously studied human trafficking. Some witnesses also mentioned child exploitation. The Committee condemns any such behaviour in the strongest terms and recognizes the need for society to appropriately respond to these crimes. However, trafficking and child exploitation are not the focus of the current review of the Criminal Code (Code) provisions relating to voluntary sex work by adults. For this reason, while they are discussed at some points because of the arguments made by witnesses, they are not dealt with comprehensively in this report.

The *Bedford* case

When *Canada (Attorney General) v. Bedford* was decided by the Supreme Court of Canada in 2013, it was not a crime to sell or buy sex for money in Canada. However, it was illegal to communicate in a public place or in public view “for the purpose of engaging in prostitution or of obtaining the sexual services of a prostitute.” It was also illegal to operate or be in a “bawdy-house” (often referred to as a “brothel”) and to live off “the avails of prostitution of another person” (often referred to as a “pimping”).

Bedford was decided based on section 7 of the *Canadian Charter of Rights and Freedoms* (Charter), which states “Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.” In 1990, the Supreme Court of Canada had decided the *Reference re ss. 193 and 195.1(1)(c) of the Criminal Code* (known as the *Prostitution reference*) and upheld the bawdy-house and communicating provisions. In discussing when a precedent can be departed from, the judgment in *Bedford* says:

[42] In my view, a trial judge can consider and decide arguments based on *Charter* provisions that were not raised in the earlier case; this constitutes a new legal issue. Similarly, the matter may be revisited if new legal issues are raised as a consequence of significant developments in the law, or if there is a change in the circumstances or evidence that fundamentally shifts the parameters of the debate.

...

[45] It follows that the application judge in this case was entitled to rule on whether the laws in question violated the security of the person interests under s. 7 of the *Charter*. In the *Prostitution Reference*, the majority decision was based on the s. 7 physical liberty interest alone. ... The rights protected by s. 7 are “independent interests, each of which must be given independent significance by the Court” (*R. v. Morgentaler*, [1988] 1 S.C.R. 30, at p. 52). Furthermore, the principles of fundamental justice considered in the *Prostitution Reference* dealt with vagueness and the permissibility of indirect criminalization. The principles raised in this case — arbitrariness, overbreadth, and gross disproportionality — have, to a large extent, developed only in the last 20 years.

The Supreme Court of Canada, thus, accepted to reconsider their decision in the *Prostitution Reference*. The *Bedford* case involved three individuals who challenged the constitutionality of the following sections of the Code:

- Section 210 regarding bawdy-houses as they relate to the sale of sexual services (This provision, along with section 197 which provides a definition of “common bawdy-house”, made it illegal to operate, own, work in or be found in a place that was used for prostitution or “the practice of acts of indecency.” The Supreme Court found that the law confined legal prostitution to street prostitution or out-calls, when the safest location for sex work is at a fixed location.)²;
- Section 212(1)(j) regarding living on the avails of another’s sale of sexual services (This provision made it illegal to “pimp out” other individuals, but also made it a crime to provide any services to a sex worker, making it illegal to be a receptionist, driver or bodyguard for a sex worker. The Supreme Court found that the provision denied sex workers access to “security-enhancing safeguards”)³; and
- Section 213(1)(c) regarding stopping or communicating with someone in a public place for the purpose of offering, providing or obtaining sexual services for consideration (This provision made it illegal to communicate in a public place to assess whether a client is safe and to negotiate the transaction. The Supreme Court found that the provision prevented sex workers from reducing the risks they face and pushed them into more isolated areas where they were more vulnerable.)⁴.

The Supreme Court of Canada concluded, in a unanimous decision, that the provisions violated the right to security of the person under section 7 of the Charter. Essentially, they found that the law played a role in making sex workers less safe by preventing them from taking measures such as working at a fixed location, communicating with clients prior to entering their car or hiring individuals who could make them safer. The [Court explained](#):

2 [Paras. 61-65.](#)

3 [Paras. 66-67.](#)

4 [Paras. 68-72.](#)



[88] ... The applicants are not asking the government to put into place measures making prostitution safe. Rather, they are asking this Court to strike down legislative provisions that aggravate the risk of disease, violence and death.

[89] It makes no difference that the conduct of pimps and johns is the immediate source of the harms suffered by prostitutes. The impugned laws deprive people engaged in a risky, but legal, activity of the means to protect themselves against those risks. The violence of a john does not diminish the role of the state in making a prostitute more vulnerable to that violence.⁵

The Court then assessed whether the deprivation of security of the person was in accordance with the principles of fundamental justice, which is required to determine if section 7 of the *Charter* has been violated. The principles of fundamental justice are “found in the basic tenets of our legal system,” and can be procedural (about a fair process for decision-making) or substantive (about the fairness of the law itself). Substantive fundamental justice includes the principles that laws should not be arbitrary, overly broad or disproportionate to their objectives.⁶

The Court outlined the following guidance:

All three principles — arbitrariness, overbreadth, and gross disproportionality — compare the rights infringement caused by the law with the objective of the law, not with the law’s effectiveness. That is, they do not look to how well the law achieves its object, or to how much of the population the law benefits. They do not consider ancillary benefits to the general population. Furthermore, none of the principles measure the percentage of the population that is negatively impacted. The analysis is qualitative, not quantitative. The question under s. 7 is whether anyone’s life, liberty or security of the person has been denied by a law that is inherently bad; a grossly disproportionate, overbroad, or arbitrary effect on one person is sufficient to establish a breach of s. 7.⁷

The Court concluded that the provisions did not respect the principles of fundamental justice. The judgment found the bawdy-house and the communication provisions to be grossly disproportionate, and the living on the avails provisions to be overbroad.⁸ Finally, the Court said:

I have concluded that each of the challenged provisions, considered independently, suffers from constitutional infirmities that violate the Charter. That does not mean that Parliament is precluded from imposing limits on where and how prostitution may be

5 [Para. 89.](#)

6 Government of Canada, [Charterpedia, Section 7- Life, liberty and security of the person.](#)

7 [Para. 123.](#)

8 [Paras. 136, 142, 147 and 159.](#)

conducted. Prohibitions on keeping a bawdy-house, living on the avails of prostitution and communication related to prostitution are intertwined. They impact on each other. Greater latitude in one measure — for example, permitting prostitutes to obtain the assistance of security personnel — might impact on the constitutionality of another measure — for example, forbidding the nuisances associated with keeping a bawdy-house. The regulation of prostitution is a complex and delicate matter. It will be for Parliament, should it choose to do so, to devise a new approach, reflecting different elements of the existing regime.⁹

The Committee found it important to keep these conclusions of the Supreme Court of Canada front of mind and to keep the safety and security of individuals who sell sexual services as the focus of our attention during the drafting of our recommendations. The primary question to be addressed is how to best provide adequate protection to these individuals and save lives.

The Protection of Communities and Exploited Persons Act

In response to the *Bedford* decision, the government of the time introduced [Bill C-36](#), the *Protection of Communities and Exploited Persons Act* (PCEPA), which received royal assent in 2014. The bill also included amendments to the Code on a broad range of topics including the definition of a weapon and sentencing in human trafficking cases. The focus of testimony and briefs was almost entirely on the provisions responding to *Bedford*.

Bill C-36 introduced new objectives, including to protect communities, to reduce demand for sexual services, to recognize the social harm caused by the objectification of the human body and the commodification of sexual activity, and to protect individuals selling sex, who it considered to be victims of sexual exploitation. The bill criminalized the purchase of sexual services in Canada for the first time. While a person could still sell sex, subject to certain conditions, purchasers would be committing an offence. The procuring, living off the avails and communicating provisions of the Code were also amended, and a new advertising offence was created, as discussed in further detail below.

CHAPTER 2: TERMINOLOGY, AGENCY AND LIVED EXPERIENCE

Terminology regarding the selling of sexual services and individuals who sell such services remains highly contested. Sex work and sex worker, prostituted person and

9 [Para. 165.](#)



prostitution, a seller of sex, sex trade and sex industry were among the terms used by witnesses.

For most witnesses who used it, the term “sex work” was focused on consenting adults, who are free from coercion and choose to sell sexual services.¹⁰ [Amnesty International](#) defined sex work as “the exchange of sexual services between consenting adults for some form of [remuneration], with the terms agreed between the seller and the buyer.”

[Suzanne Jay](#), Asian Women for Equality collective member, emphasized the importance of distinguishing a “sex worker” from those who are “pimping, managing brothels, doing recruitment and facilitating through advertising,” whom she called exploiters.

Some witnesses were intentional in not using the term “sex worker.”¹¹ During her testimony, [Jennifer Dunn](#), Executive Director, London Abused Women’s Centre, used the term “sex industry” to refer to “women who have been prostituted, sexually exploited and trafficked.” Others argued that using a gender-neutral term like “sex work” obscures the gender inequality inherent in the industry.¹²

Acknowledging the discussion on terminology, the Committee uses the terms “sex work” and “sex worker” in this report to refer to adults who sell their own sexual services, because that is the term that witnesses currently selling sex generally used to describe themselves. For the Committee, “sex work” does not include those who profit financially from the sex work of others, although we recognize that there may be overlap in roles. While some witnesses referred to “third parties,” that term may be unclear for readers and the Committee has chosen to refer to “those who profit financially from the sex work of others” to refer to the general group of individuals involved in the sex industry who are not the sex worker themselves (for example, a bodyguard, receptionist, driver, interpreter, “pimp” or brothel owner). We use the term “client” to refer to individuals who purchase sex because it is commonly used and easily understood in both French

10 House of Commons Standing Committee on Justice and Human Rights (JUST), 43rd Parliament, 2nd Session, [Evidence](#), 1 March 2022 (Kerry Porth, Sex Work Policy Consultant, Pivot Legal Society); JUST, [Brief](#), 5 February 2022 (Centre for Gender Advocacy).

11 JUST, [Evidence](#), 11 February 2022 (Jennifer Dunn, Executive Director, London Abused Women’s Centre). Also see JUST, [Evidence](#), 11 February 2022 (Trisha Baptie, Founding Member and Community Engagement Coordinator, EVE).

12 JUST, [Evidence](#), 5 April 2022 (Professor Janine Benedet, Professor of Law, Peter A. Allard School of Law, University of British Columbia); JUST, [Evidence](#), 22 March 2022, (Andrea Heinz).

and English. We only use other terms, such as “prostitute” and “prostitution,” in direct quotes as they are increasingly deemed derogatory.¹³

Differences regarding language largely relate to beliefs about consent, agency and whether sex work can exist without exploitation. Individuals with lived experience in the sex industry shared experiences ranging from joy and fulfillment to exploitation, violence and other harms.¹⁴ Certain witnesses advised the Committee to centre the voices of survivors and the experiences of those who exited the sex industry during the review, while others thought the focus should be on current sex workers.¹⁵ Some organizations stressed the importance of recognizing the broad range of experiences that exist within the sex industry, and even within individuals’ experiences over time.¹⁶

In their brief, the [Fédération des femmes du Québec](#) said:

Recognizing agency means having an ongoing dialogue with women, who are the first to be involved in and affected by decisions related to the sex industry. Furthermore, we recognize the need to differentiate between consensual exchanges, exploitative situations and human trafficking, and that poverty, exclusion and conflictual relationships with the state must be addressed, with a particular focus on the needs of women living at the intersection of multiple oppressions.

[Alexandra Stevenson \(Ford\)](#), a Speaker, Survivor and Prevention Specialist, called it “impossible” to separate those who choose to work in the sex industry from those who are not involved by choice. [Kelly Tallon Franklin](#), CEO of Courage for Freedom, shared that many of the survivors she worked with who started as minors did not have agency nor understand their situation.

The [Evangelical Fellowship of Canada](#) provided an alternative perspective on choice and agency:

The question of choice in the system of prostitution is not straightforward. It is for this reason that our laws and policies related to prostitution must focus on the one party in

13 JUST, [Brief](#), 23 Feb 2022 (Dr. Cecilia Benoit and Dr. Andrea Mellor).

14 For positive experience see, for example, JUST, [Evidence](#), 5 April 2022 (Nadia Guo, Criminal Defence Lawyer); JUST, [Brief](#), February 2022, p. 2 (Butterfly); JUST, [Brief](#) (Maxime Durocher). For negative experiences see, for example, [Evidence](#) (Baptie); [Evidence](#) (Heinz); JUST, [Evidence](#), 1 April 2022 (Kelsey Smith, Neuroscience and Mental Health Student, Carleton University).

15 JUST, [Evidence](#), 15 February 2022 (Lynne Kent, Chair, Vancouver Collective Against Sexual Exploitation); JUST, [Evidence](#), 1 March 2022 (Kelly Tallon Franklin, CEO, Courage for Freedom); JUST, [Evidence](#), 4 March 2022 (Alexandra Stevenson (Ford), Speaker, Survivor and Prevention Specialist).

16 JUST, [Evidence](#), 22 March 2022 (Glendyne Gerrard, Director, Defend Dignity); JUST, [Brief](#), 25 February 2022 (Action Canada for Sexual Health and Rights).



the transaction that is certain to be making a free choice – the sex buyer. In focusing its attention on the sex buyer and on those third parties who would profit from the exploitation of others, PCEPA recognizes and responds to the difficulty of assessing and ensuring voluntariness within the system of prostitution.

In contrast, the [Sex Workers of Winnipeg Action Coalition](#) said:

We have lived, first hand, the effects of criminalization and are demanding that our voices [as sex workers] be centred when conducting this work. To centre the voices of sex work abolitionists in these consultations does not serve sex workers, nor does it serve folks affected by human trafficking.

[Jenn Clamen](#), National Coordinator, Canadian Alliance for Sex Work Law Reform, spoke to what she saw as a trend in testimonies by sex worker abolitionist advocates. She said:

One such myth is this erroneous division between exploited survivors on the one hand and independent sex workers or entrepreneurs on the other. All witnesses, including sex workers, are presenting evidence about people who sell or trade sex in difficult circumstances, most with limited options, yet a false divide is being created, as if people's experiences fall within one of two categories: people who have agency and don't experience abuses and those who do experience abuses and don't have agency.

While some individuals in the sex industry can maintain higher degrees of control and autonomy, we also acknowledge that is not the case for all. The Committee recognizes the importance of hearing the range of experiences individuals have with the sex industry and have incorporated these perspectives, with particular attention to the testimonies of those with lived experience and peer-reviewed research, into this review of PCEPA.

Recommendation

Recommendation 1

That the Government of Canada ensure that, prior to any amendments to the *Protection of Communities and Exploited Persons Act* or the development of any related programs or policies, extensive consultation is undertaken.

CHAPTER 3: REASONS FOR ENTERING THE SEX TRADE AND DEMOGRAPHICS

[Statistics Canada](#) data from 2021 shared by [Nathalie Levman](#), Senior Counsel, Criminal Law Policy Section, Department of Justice, confirmed what many witnesses said:

[T]he majority of people who provide sexual services are women and girls; the vast majority of those who purchase sexual services are men, and the majority of profiteers and procurers are also men.

Men and gender diverse people made up about 20% of sex workers according to a 2006 study. According to [Egale](#), a 2014 study found 77% of sex workers identified as women, 17% identified as men and 6% identified as transgender, gender-fluid or a gender other than men or women.

[Charlene Gagnon](#), Manager, Advocacy, Research and New Initiatives, YWCA Halifax, described a 2020 survey of 95 individuals in Nova Scotia involved in the sex trade which found that 30% were from rural communities. [Cathy Peters](#), Educator, told the Committee that 54% of the individuals selling sex are Indigenous.¹⁷

According to [Ms. Peters'](#) brief, "the sex industry relies on underage recruitment."¹⁸ [Glendyne Gerrard](#), Director, Defend Dignity, provided information about 19 individuals they were supporting. Twelve were minors when they entered the sex industry, including one who was two years old.¹⁹ Various other witnesses stated varying average ages for entry based on different sample sizes and locations.²⁰

[Sandra Wesley](#), Executive Director of Stella, stated:

[S]ex workers are incredibly diverse. We have women of all ages. It is completely false to think that most sex workers are young. At Stella, the majority of the women we see are in their thirties.

[Ms. Clamen](#) also stated:

Supporters of PCEPA claim that the average age of entry is 12 to 14 years old. This is a discredited claim. Young people do experience abuses, both in and out of the sex industry, but massage parlours, strip clubs and agencies are not rife with 12- and 13-year-olds. This is not the average age that people start to sell or trade sex.

Misinformation about the average age of entry is what researcher John Lowman calls a "cornerstone of prohibitionist rhetoric". He says that "treating prostitutes as children

17 No source was provided to support the assertion that 54% of individuals selling sex are Indigenous.

18 Also see [Evidence](#) (Baptie; Dunn).

19 Also see JUST, [Brief](#), 25 February 2002, p. 3 (Mikhaela Gray-Beerman).

20 See, for example, [Brief](#), p. 1-2 (Butterfly); JUST, [Brief](#), 25 February 2022, p. 2 (Evangelical Fellowship of Canada (EFC)); JUST, [Brief](#), 23 February 2022, p. 6 (Lifeworthy-SIM Canada).



makes it much easier for prohibitionists to argue that [women] should be saved from [ourselves].”

Discredited claims about the age of entry are circulated by people who support criminalization and PCEPA. The most recent empirical research paints a very different picture. A 2018 study by Cecilia Benoit indicates 24 years of age as the average age of entry. A 2011 study by van der Meulen found it to be 20. A 2007 study by O'Doherty found it to be 23 years of age.²¹

The reasons for involvement in the sex trade vary and include socioeconomic factors such as poverty, youth, homelessness, lack of education or ability to pay for education, lack of other employment options, substance abuse, debt, needing to support a family and need to escape an abusive relationship.²² [Daphne Barile](#), Coordinator of Québec Trans Health Action, told the Committee that the transgender sex workers she works with want to stay in sex work for a variety of reasons including that it provides self-sufficiency, to supplement insufficient social service payments, because of transphobia and racism in legal labour sectors and because their immigration status prevents them from working other jobs.

[Gwendoline Allison](#) of Barton Thane Law told the Committee that, “Prostitution targets the vulnerable,” often those without meaningful choices.²³ Histories of sexual abuse and incest are common.²⁴ [Paul Brandt](#)’s brief said that 75% of individuals in the sex industry were exploited as children.²⁵ Many were in the foster care system.²⁶ Many of the adult independent sex workers got involved in the industry through exploitation and trafficking as youth and lacked educational opportunities and resources to change careers as adults, according to [Ms. Gagnon](#). The level of power to control how, when,

-
- 21 Also see JUST, [Brief](#), February 2022, p. 6-7 (BC Coalition of Experiential Communities), which challenges a number of assertions made by Ms. Peters.
- 22 JUST, [Evidence](#), 8 February 2022 (Carole Morency, Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice); JUST, [Evidence](#), 15 February 2022 (Elene Lam, Executive Director, Butterfly); [Brief](#), p.1 (Benoit and Mellor); JUST, [Brief](#), 21 February 2022, p. 2 (Canadian Alliance for Sex Work Law Reform); JUST, [Brief](#), 25 February 2022, p. 4 (Defend Dignity).
- 23 Also see [Brief](#) (EFC); [Brief](#), p. 6 (Lifeworthy-SIM Canada).
- 24 JUST, [Evidence](#), 11 February 2022 (Cathy Peters, Educator); JUST, [Evidence](#), 15 February 2022 (Temitope Abiagom, Manager, Nova Scotia Transition and Advocacy for Youth, YWCA Halifax); JUST, [Evidence](#), 1 March 2022 (Christa Big Canoe, Legal Advocacy Director, Aboriginal Legal Services).
- 25 The source used to support this assertion is an Alberta government [pamphlet](#), which cites a [2002 study](#) of 50 people.
- 26 [Evidence](#) (Abiagom; Kent); [Evidence](#) (Christa Big Canoe); JUST, [Brief](#), February 2022, p. 3 (Iskweu Project of the Native Women’s Shelter of Montreal); JUST, [Brief](#), February 2022, p.3 (Roman Catholic Archdiocese of Vancouver).

and where they provide services varies, according to [Carole Morency](#), Director General and Senior General Counsel, Criminal Law Policy Section, Department of Justice.

[Nadia Guo](#), criminal defence lawyer and previously an independent escort, explained her motivation as follows:

Personally, I was curious about it. I wanted to explore my sexuality and I wanted to see what it was like. Obviously, there was also the money, because you can make a lot of money in a very short period of time. You can control your own hours. You can have total control over your working conditions, which was not the case, for example, when I was articling.

[Naomi Sayers](#), lawyer, also shared her story:

The reason I talk about my story so much is that it's not heard. It's not considered. I entered when I was 18. I was still in high school. I was learning to live with a brain injury. I had just survived a horrible car accident and had almost died. I was working two minimum-wage jobs. When you have a brain injury, you have headaches— migraines. You're tired. I was like, "I can't achieve my education goals to go to university if I'm working two minimum-wage jobs." I was not living at home, and sex work was there.

If you attack minimum wage, if you attack safe housing, if you tackle those other supports...Maybe I never would have gone into sex work. I don't know, but it got me out. It led me to where I am today. I'm a lawyer and I help other victims and survivors. I think that's key.

Dr. Cecilia Benoit and Dr. Andrea Mellor from the University of Victoria explained in their brief that their study of 218 people in sex work in six Canadian cities in 2012-2013 also found that participants found better work quality in sex work as compared to other jobs they had done or were doing concurrently. [Dr. Cecilia Benoit and Dr. Andrea Mellor's](#) brief states:

It is something as a myth that people who sell sexual services in Canada enter the activity against their will. The evidence shows that they decide to begin sex work for reasons similar to reasons why people enter other jobs. There is no doubt that for some, especially for the more disadvantaged, sex work can be their most realistic way of making a living. Evidence shows that sex work is one of many employment options for low-skilled workers. Many sex workers hold multiple precarious jobs. The autonomy sex work presents them in terms of job satisfaction, money and independence makes it a favourable alternative to other forms of employment within their reach.

CHAPTER 4: POSSIBLE MODELS

There are four types of models to address sex work between consenting adults:



- the Nordic model (where clients are criminalized);
- the prohibitionist model (where both sex sellers and clients are criminalized);
- decriminalization (where sex work is treated like other work with no specific criminal offences and regulated by general employment and labour laws); and
- legalization (where there is a specific regime regulating the sex trade, and criminal laws applicable outside that sphere).²⁷

Witnesses primarily discussed the Nordic and decriminalization models, with current sex workers generally calling for decriminalization and those who had left having more mixed opinions. While some witnesses referenced Canada’s international obligations, they were not canvassed in-depth, and the focus of the report is on Canadian law.²⁸

International Experiences

The claims by witnesses about experiences in other countries were sometimes contradictory. Sweden introduced the Nordic model in 1999 and New Zealand decriminalized sex work between consenting adults in 2003. Much of the discussion about other countries’ experiences related to those two countries.²⁹

Some witnesses spoke positively of the Swedish experience. Public education and training for justice system actors were reportedly crucial for success.³⁰ [Ms. Levman](#) said the model “seems to reduce the demand.” In contrast, [Dr. Claudyne Chevrier](#), Ph.D., Community Health Sciences, challenged the idea that Sweden’s model has decreased demand as intended, saying that research shows there was possibly a decrease at first

27 See JUST, [Evidence](#), 8 February 2022 (Nathalie Levman, Senior Counsel, Criminal Law Policy Section, Department of Justice) for further explanation of the four models.

28 For testimony and briefs regarding international obligations see, for example, JUST, [Brief](#), 25 February 2022 (Amnesty International); JUST, [Brief](#), February 2022, p. 4 (Nancy Brown); JUST, [Brief](#), 25 February 2022, p. 5-7 (Canadian Centre for Child Protection); JUST, [Brief](#), p.2 (CEASE); JUST, [Brief](#), 2 March 2022, p. 9 (Christian Legal Fellowship); [Brief](#), p. 4-6 (Defend Dignity); JUST, [Brief](#), p.4 (Hennes Doltze); JUST, [Brief](#), March 2022, p. 4 (PDF Québec).

29 For a perspective on Germany’s experience, see JUST, [Brief](#), 10 February 2022 (Dr. Ingeborg Kraus).

30 JUST, [Evidence](#), 1 March 2022 (Gwendoline Allison, Barton Thane Law); [Evidence](#) (Baptie).

but that did not last. At the same time, she said that violence and police harassment increased.

[Christa Big Canoe](#), Legal Advocacy Director at Aboriginal Legal Services, stated that decriminalization in New Zealand resulted in increased safety, decreased loss of life and improved relationships between police and sex workers.³¹ [Kerry Porth](#), Sex Work Policy Consultant for Pivot Legal Society, said that research suggests sex workers there have increased control, including the ability to refuse clients and to insist on condom use.

According to [Ms. Clamen](#), there are “no methodologically sound sources” for claims that the New Zealand model is a failure. In contrast, [Lynn Kent](#), Chair, Vancouver Collective Against Sexual Exploitation, said:

New Zealand prostitutes protested, campaigned and lobbied for full decriminalization, only to find out that their own agency was reduced and all the benefit, control and power went to the brothel owners, pimps, johns and exploiters.

She said that New Zealand has been flagged as having a trafficking problem in all Trafficking in Persons reports from the U.S. Department of State since decriminalization.³² Proponents of the New Zealand model said that ongoing criminalization of migrant sex workers in that country has led to trafficking assumptions that are not always accurate.³³

The Committee did not hear from any witnesses from Sweden but did hear from two researchers in New Zealand. [Dr. Gillian Abel](#), Professor, Department of Population Health, University of Otago, said:

It will be 20 years next year since sex work was decriminalized in New Zealand, and I can categorically state that sex workers are far better off than they were when I undertook that first study in the 1990s.

While recognizing not everything is perfect, she reported greater ability to negotiate boundaries and services and to refuse clients, increased awareness of their rights by sex workers, more recourse to justice for exploitation, and improved relations with police. She said the numbers in sex work did not increase. One area for improvement she identified was to change the rules that currently ban migrants from sex work.

31 Also see JUST, [Evidence](#), 4 March 2022 (Jenn Clamen, National Coordinator, Canadian Alliance for Sex Work Law Reform; Jenny Duffy, Board Chair, Maggie’s).

32 Also see [Evidence](#) (Franklin).

33 [Evidence](#) (Porth); [Evidence](#) (Clamen).



[Dr. Lynzi Armstrong](#), Senior lecturer, Institute of Criminology, Victoria University of Wellington, outlined similar benefits and issues with the New Zealand model. She also said that, by defining sex work as work, they can easily distinguish human trafficking from sex work.

Research on the Impact of PCEPA

[Statistics Canada](#) produced a report analyzing statistics available to them pre- and post-PCEPA. They found that prior to the enactment of PCEPA, 43% of those accused of sex trade-related offences were women while, in the five years after enactment, 7% of accused were women. The research also found that victims were less likely to report injuries after PCEPA was enacted and that there were also fewer homicides of sex workers.

The [AESHA Project](#), a longitudinal research project with over 900 sex workers in Vancouver that has been the source of peer-reviewed publications, evaluated experiences before and after PCEPA was introduced. Seventy-two percent of participants reported no change in working conditions after PCEPA was implemented, while 26% reported negative changes, with the most common being reduced ability to screen clients and negotiate terms. Reporting of violence to police did not increase, with only 26% of sex workers reporting (13% for racialized immigrant and migrant sex workers). The research also found a 41% decrease in access to health services and a 21% decrease in access to community-led support services. Finally, the research showed that security and administrative support were linked to occupational health and safety, but there was a 31% reduction in access to such supports for sex workers after PCEPA was implemented.³⁴

[Another study](#) by Dr. Kate Shannon, Dr. Chris Bruckert and others of 200 sex workers in five Canadian cities found that 80% of participants reported that violence increased or stayed the same after PCEPA, with street-based and Indigenous sex workers reporting the most violence. Eighty-seven percent of participants reported that it was harder or the same to get help in an emergency under PCEPA than previously and 31% reported being unwilling to call 911 due to fear of police detecting them, their colleagues or others. Indigenous sex workers were twice as likely to have such fears as other sex workers.

34 JUST, [Evidence](#), 1 April 2022 (Dr. Andrea Krüsi, Faculty Member and Assistant Professor, Department of Medicine, University of British Columbia, representing the Centre for Gender and Sexual Health Equity); JUST, [Brief](#), February 2022 (AESHA Project).

Certain witnesses questioned the reliability of the Statistics Canada data.³⁵ [Dr. Andrea Krüsi](#), Faculty Member and Assistant Professor, Department of Medicine, University of British Columbia, representing the Centre for Gender and Sexual Health Equity, reminded the Committee that the Statistics Canada data does not include individuals who did not report to the police. Other studies do, which can explain the different conclusions regarding the impact of PCEPA.

Nordic Model – PCEPA

PCEPA adopts the key element of the Nordic model, which is to criminalize the purchase of sex. Some witnesses referred to it as the “gold-standard law,”³⁶ while others called for its repeal, saying tweaks would not improve it.

The witnesses who supported PCEPA generally saw sex work as exploitative, harmful and counter to gender equality.³⁷ [Rose Dufour](#)’s brief says:

For [johns and pimps], paid sex is a right, a right to use women's bodies for their sexual desires, which they define as irrepressible and that must be satisfied by women. All prostitution subscribes to this patriarchal vision and, when prostitution is legal in a country, sexual trade and the commodification of human beings are legitimized.³⁸

[Trisha Baptie](#), Founding Member and Community Engagement Coordinator, EVE, supported the Nordic model, challenging the idea of sex work as work:

I think the problem is that we keep talking about this as work, as if this were inevitable. We’re working towards the end of it, just like we’re working towards the end of domestic violence, the end of rape and the end of all these things that plague women and society.³⁹

Such witnesses saw decreasing demand as essential. [Andrea Heinz](#) told the Committee:

35 JUST, [Evidence](#), 8 February 2022 (Sandra Wesley, Executive Director, Stella); [Evidence](#) (Clamen); [Evidence](#) (Krüsi).

36 JUST, [Brief](#) (Paul Brandt); JUST, [Brief](#), February 2022, p. 1 (VCASE).

37 See, for example, JUST, [Evidence](#), 5 April 2022 (Kathleen Quinn, Executive Director, CEASE); JUST, [Brief](#) (ICOSE); JUST, [Brief](#), 9 February 2022 (Persons Against Non-State Torture).

38 Also see, for example, [Evidence](#) (Benedet); JUST, [Brief](#), 25 February 2022, p. 1 (The Canadian Council of Churches).

39 Also see JUST, [Evidence](#), 1 April 2022 (Cherry Smiley, Founder, Women’s Studies Online).



At the end of the day, whatever law exists, laws don't sit in the private rooms as the exchange occurs. More exchanges equate to more harm on a quantitative level, because harm is inherent to the activity.⁴⁰

Some witnesses supportive of PCEPA also argued that demand is reduced when sex buyers are penalized.⁴¹ [ICOSE's](#) brief provided data showing that countries that legalized or decriminalized had much larger sex industries.⁴² [Dr. Janine Benedet](#), Professor of Law, Peter A. Allard School of Law, University of British Columbia, thought it was necessary to criminalize even if it isn't possible to eliminate the behaviour entirely, just like other offences such as sexual assault or homicide, so that the behaviour is not normalized.

[Ms. Jay](#) said:

We support the act. The act is sophisticated. It recognizes the differences between the exploiters and the exploited, and it treats them differently. The exploiters are criminalized, and the exploited are not.

The [Aboriginal Women's Action Network](#) argued in support of PCEPA as well.

Several challenged the idea, discussed further below, that PCEPA is causing harm and blamed the men who buy sex and those that exploit sex workers for any harms.⁴³ They outlined physical, emotional and mental harms.⁴⁴

[Ms. Baptie](#) told the Committee:

It was not the law and it was not stigma that beat, raped and killed me and my friend: It was men. It was not the location we were in that was unsafe: It was the men we were in that location with that made it unsafe. It was not just one type of man: It was men from all walks of life.

[VCASE's](#) brief declares:

PCEPA is socially, legally, and relationally transformative in its approach to address the objectification and commodification of women and girls disproportionately impacted, controlled, pimped, and trafficked into prostitution.

40 Also see JUST, [Evidence](#) (Kelsey Smith).

41 See, for example, JUST, [Brief](#), 16 February 2022, p. 2 (ARPA);); [Brief](#) (Defend Dignity).

42 Sources cited for this assertion can be found in footnotes 65-68 of the brief.

43 See [Evidence](#) (Peters); [Evidence](#) (Kent); [Evidence](#) (Allison; Brandt); [Evidence](#) (Quinn).

44 [Evidence](#) (Gerrard); [Evidence](#) (Smiley); [Brief](#), p. 3 (Defend Dignity); [Brief](#) (Gray-Beerman); JUST, [Brief](#), 22 February 2022, p. 3 (Kathy King); [Brief](#) (Lifeworthy-SIM Canada); JUST, [Brief](#), 16 February 2022 (Kylee Nixon).

The [London Abused Women](#)'s brief shared that, since PCEPA was enacted, there have been fewer homicides in the sex industry, fewer charges against women in the sex trade and more charges for obtaining sexual services from a minor against men.⁴⁵ [Ms. Franklin](#) said PCEPA has helped in identifying minors who have been raped and trafficked.⁴⁶

Similarly, [Mr. Brandt](#) said:

The evidence is clear. Since its introduction, more victims are being identified and supported, more children are being protected, and more sex purchasers are being charged because of the urgently needed framework and safety mechanisms created by the PCEPA.

...

I would say that supporting and maintaining the PCEPA, and enhancing the legislation as it is, would be valuable for Canadians. Women, girls, youth and children, and a disproportionate number of [I]ndigenous people, are lured into the sex industry. The PCEPA addresses this issue. By enhancing measures within the act, the PCEPA can be made more effective.

[Mr. Brandt](#) and [Ms. Jay](#) blamed any harm on a misapplication of the law and told the Committee that, where it is applied, it is working.

While recognizing the safety concerns of those critical of PCEPA, [Ms. Stevenson](#) argued that PCEPA must be enforced so that the most vulnerable can be protected:

I believe both sides hold truths and need not be forever mutually exclusive. However, a federal law should protect the most vulnerable populations within that country and the Protections of Communities and Exploited Persons Act does just that...If a world exists in which the sex industry can prevail without extreme levels of inequality, exploitation and predation, we must first work together to create it.

[Superintendent Lisa Byrne](#) of the Vancouver Police Department and Member of the Law Amendments Committee, Canadian Association of Chiefs of Police, told the Committee that PCEPA protects legitimate brothel owners where there is no exploitation and they are operating within the law, as well as women working in those situations, while also protecting vulnerable people by giving police the tools to carry out investigations.

45 Ms. Dunn relied on the Statistics Canada data mentioned above to reach these conclusions.

46 No source was provided to support the assertion that PCEPA has helped in identifying minors who have been raped and trafficked.



Several witnesses mentioned the impact of PCEPA on the stigma faced by sex workers. [CEASE](#) argued PCEPA is destigmatizing. In contrast, [Dr. Benoit and Dr. Mellor](#)'s brief said:

PCEPA and its Preamble includes words and phrases that are inherently stigmatizing toward sex workers.

...

The consequences of stigmatization are far-reaching, including discrimination in employment and when seeking health and protective services.

In contrast with the testimonies cited above, several witnesses were critical of the Nordic model, calling for the repeal of PCEPA.⁴⁷ [Amber Lindstrom](#), Program Coordinator for SafeSpace London, noted that the law's objective of reducing demand for sex work has not been successful.⁴⁸ The [Centre for Gender Advocacy](#)'s brief states that "[t]he concept that legislative measures can reduce a demand for a service is an absurd one."⁴⁹

[Ms. Wesley](#) said about the law:

It should be noted that protection isn't necessarily the main goal. We can't eliminate sex work and protect people engaged in prostitution at the same time. These two goals contradict each other.

[Sandra Ka Hon Chu](#), Co-Executive Director, HIV Legal Network, also challenged the perception that PCEPA does not criminalize sex workers, referring to section 213 of the *Criminal Code* (regarding communications in a public place), as well as other offences where sex workers provide services to other sex workers and can be charged for benefitting, advertising or procuring.⁵⁰

47 See, for example, [Evidence](#) (Wesley); [Evidence](#) (Elene Lam); [Evidence](#) (Clamen; Duffy).

48 Also see JUST, [Evidence](#), 4 March 2022 (Alison Clancey, Executive Director, SWAN Vancouver Society); [Brief](#), p. 9 (Canadian Alliance for Sex Work Law Reform); JUST, [Brief](#), p. 3 (Nyema Reiz); JUST, [Brief](#), p. 5 (Shift Calgary, HIV Community Link).

49 Also see JUST, [Brief](#), 3 March 2022, p. 1 (Direction régionale de santé publique de Montréal); [Brief](#), p. 1 (Shift Calgary).

50 Also see [Evidence](#) (Wesley); JUST, [Brief](#), 15 February 2022, p. 3 (No Pride in Policing Coalition). While this may be true, JUST, [Brief](#), 22 February 2022, p. 1 (Vancouver Rape Relief and Women's Shelter), notes that prosecution of sex workers is rare and refers to [Statistics Canada](#) data that 2364 women were charged with stopping traffic or communicating offences from 2010-2014, while over the first five years PCEPA was in place that number was 34.

[Miia Suokonautio](#), Executive Director of the YWCA Halifax, told the Committee that there is no evidence that PCEPA has prevented or ended exploitation in her province of Nova Scotia.⁵¹ As [Ms. Ka Hon Chu](#) stated:

The PCEPA actually reinscribes those very same provisions, adds the prohibition on purchasing and a prohibition on advertising. Nothing has changed. The harms that the Supreme Court of Canada found almost a decade ago are still happening, as you heard from the research. This means that this current law is still unconstitutional. It will not withstand charter scrutiny.⁵²

The [Canadian Alliance for Sex Work Law Reform](#) brief said:

While establishing and maintaining consent are viewed as critical to any sexual encounter, including in the context of sex work, ss. 213(1), 213(1.1), 286.1, 286.2, 286.3, and s. 286.4 undermine sex workers' ability to clearly negotiate, communicate, and establish the terms of their consent to sexual activities to relevant parties, such as potential clients as well as people with whom they work. The criminalization of sex work also has enormous impacts on sex workers' working conditions, and consequently the contexts and conditions in which they negotiate consent. These prohibitions deny the personal and sexual autonomy and agency of sex workers, and put sex workers in unnecessary danger.

[Ms. Wesley's](#) criticism was even stronger:

[N]o one is necessarily disputing that this law is killing people, that it is putting people at risk of violence, that it is putting people in poverty or that it is doing all kinds of harms to people. It's just that now, with this bigger objective of eradicating us that maybe some people think there's an argument to defend, that it's okay if some of us get murdered in the pursuit of that objective.⁵³

The [Sex Workers of Winnipeg Action Coalition](#) said:

Prohibition criminalizes swaths of people needlessly, fills prisons, backlogs systems, and exposes people needlessly to harmful corrections institutions that break up families, keep them from obtaining work when they leave these institutions, and cause widespread mental strife...We need only look as far as the War on Drugs, as well as prohibition of alcohol in the late 19th and early 20th centuries. From bootleg alcohol

51 Also see, for example, JUST, [Brief](#), 25 February 2022 (Katrin Roots, et al.).

52 Also see, regarding harms caused by PCEPA, [Evidence](#) (Wesley); [Evidence](#) (Barile; Dr. Claudyne Chevrier, Ph.D., Community Health Sciences); [Evidence](#) (Abiagom; Elene Lam); [Evidence](#) (Big Canoe); [Evidence](#) (Clamen; Duffy; Amber Lindstrom, Program Coordinator, SafeSpace London); JUST, [Brief](#), April 2021 (Egale); JUST, [Brief](#) 21 February 2022 (Dr. Lisa Lazarus); JUST, [Brief](#), p.1 (Sex Workers of Winnipeg Action Coalition).

53 Also see [Evidence](#) (Elene Lam); [Evidence](#) (Lindstrom); JUST, [Evidence](#), 1 April 2022 (Melissa Lukings, Juris Doctor, Author and Researcher; Susan Davis, Director, BC Coalition of Experiential Communities). For an opposing view, see [Evidence](#) (Quinn).



that blinded imbibers during prohibition of alcohol in the US to the opioid crisis of today, the prohibition of sex work did the exact same thing - making something that can be safe unsafe via law.⁵⁴

[Ms. Wesley](#) told the Committee that it is the most marginalized women, such as Indigenous, transgender and migrant women, who experience the most consequences and the most targeting by police and abusers under PCEPA.⁵⁵

[Ms. Ka Hon Chu](#) stated:

Participants also shared how criminalization forces sex workers to put up with poor working conditions and incidents of violence. Criminalization has forced third parties and workplaces to conceal sex work, so sex workers can neither access decent working conditions nor report harassment or violence, because their employers and peers are consequently scrutinized as third parties or human traffickers.⁵⁶

As their income is the product of crime, sex workers do not have access to employment insurance and other government benefits or workplace health and safety protections, according to [Ms. Wesley](#). She said bank accounts and online payment systems can be frozen if there are suspicions someone is a sex worker and filing income tax returns is risky. According to the [HIV Legal Network](#)'s brief, sex workers also face difficulty when seeking other forms of employment due to criminalization if they have sex work-related criminal convictions and cannot pass vulnerable sector screening.

As noted by [Ms. Clamen](#), the impacts of PCEPA on sex workers goes beyond the criminal context:

The impacts of PCEPA go well beyond arrest. It impacts sex workers' lives in terms of housing, child apprehension, violence and an inability to maintain income.⁵⁷

[Ms. Wesley](#) said abusive partners use the fact that a woman is a sex worker to threaten the loss of custody of their children.

[Dr. Shira Goldenberg](#), Director of Research Education and Assistant Professor, Division of Epidemiology and Biostatistics, Simon Fraser University, told the Committee that PCEPA

54 See original for citation.

55 Also see JUST, [Evidence](#), 4 March 2022 (Sarah Smith, Small Business and Indoor Workers Group Coordinator, Peers Victoria Resources Society).

56 Also see [Brief](#), p.7 (Butterfly); JUST, [Correspondence](#), 7 February 2022 (Centre for Gender & Sexual Health Equity).

57 Also see [Evidence](#) (Wesley); JUST, [Evidence](#) 11 February 2022 (Sandra Ka Hon Chu, Co-Executive Director, HIV Legal Network).

also creates, “health inequity and barriers to safety and health access for sex workers.” The [Direction régionale de santé publique de Montréal](#) brief listed several health-related harms due to criminalization including increased HIV infection risk, increased risk of violence and barriers to obtaining health services due to factors such as stigma and discrimination.

The sex workers who participated in an [HIV Legal Network](#) study outlined negative impacts on their mental health due to, among other reasons, anxiety about police raids and surveillance. They feared stigma associated with being “outed” as sex workers, possible eviction from their home or place of work, impacts on family such as loss of child custody, and impediments to practicing safer sex, among other impacts of criminalization.

[Ms. Guo](#) was the only witness who did not notice much change in her business or that of other sex workers she knows with the enactment of PCEPA, either positive or negative.

Some witnesses had critiques of specific provisions in PCEPA, which are discussed in more detail below. Witnesses who supported PCEPA were generally supportive of the provisions except where mentioned below.

Criminalizing Clients

Section 286.1 of the Code makes it illegal to purchase sexual services. [Ms. Guo](#) observed that the clients that actually get arrested “tend to be less well educated, less white and less well off,” even if they are not the only clients.

The [SWAN](#) Vancouver Society brief notes, “One cannot criminalize one half of an interaction without it having negative consequences and outcomes for the other half.”⁵⁸ The brief by [Living in Community and co-signatories](#) explained that “sex workers are routinely surveilled and harassed by law enforcement who target clients.”

The [AESHA Project](#) brief cites research that shows that criminalizing the clients reproduces the harms that were identified in *Bedford*.⁵⁹ In addition, according to [Ms. Clamen](#), while *Bedford* recognized that indoor work is safer, section 286.1 provides grounds for eviction of sex workers from residential or commercial workspaces for being involved in illegal activity.

58 Also see [Brief](#) (Canadian Alliance for Sex Work Law Reform).

59 Also see [Evidence](#) (Wesley); [Evidence](#) (Chevrier); [Evidence](#) (Porth); JUST, [Brief](#), 23 February 2022, p. 1 (Genevieve Fuji Johnson).



According to [Jenny Duffy](#), Board Chair, Maggie’s, street-based sex workers “have consistently disclosed about harassment from law enforcement and being forced to relocate around the city to avoid police.” For example, prior to PCEPA, it used to be possible to assess a potential client and negotiate a price, condom use, where they would go and services to be provided before entering a vehicle for street-based sex workers. However, the Committee was told, these conversations are criminalized so the sex worker will jump in the car more quickly before such negotiations take place and is then in a vulnerable position vis-à-vis the client and can be taken anywhere.⁶⁰ As [Ms. Porth](#) noted, “Once she’s behind the closed door of a moving vehicle she’s lost the power of negotiation.”

The [No Pride in Policing Coalition](#) brief elaborated:

When clients are displaced or deterred, street-based sex workers are more likely to take risks with new or unknown clients and provide services they would not otherwise be prepared to offer. For example, sex workers may work in darker and less populated areas where they are more vulnerable to violence; experience a reduced client-base leading to longer work hours; and work more often to generate the same income...

Informal support networks among sex workers are weakened, and it is more difficult for sex workers to warn each other about abusive or violent aggressors posing as clients, as well as to consult resources like a “bad date list”. It also makes it harder for social service providers to maintain contact with sex workers.⁶¹

For those advertising and negotiating online, clients don’t want to give real names, provide identification nor negotiate in detail or explicitly so everything is done using code words or once in person.⁶²

[Susan Davis](#), Director, BC Coalition of Experiential Communities, also told the Committee that purchasers “are a critical ally in the fight against exploitation...The clients are not these boogeymen.” She told the Committee about clients calling police to flag youth selling sex online, and that criminalizing them does not motivate them to report exploitation. The [Canadian Alliance for Sex Work Law Reform](#) brief stated that members of their alliance had noticed that clients were more willing to report violence, coercion or exploitation against sex workers that they witnessed before PCEPA, even sometimes accompanying the sex worker to make the report.

60 [Evidence](#) (Wesley); [Evidence](#) (Chevrier); [Evidence](#) (Porth).

61 Also see JUST, [Brief](#), p. 2 (St. John’s Status of Women Council).

62 [Evidence](#) (Wesley); [Evidence](#) (Chevrier).

The [Butterfly \(the Asian and Migrant Sex Workers Support Network\)](#) brief outlined the important role clients can play in the lives of migrant sex workers as “a crucial resource and support system.” However, Butterfly has seen the relationship between clients and sex workers change, with criminalization inhibiting the formation of productive and supportive relationships due to clients’ fear of repercussions.

The [Canadian Bar Association](#) argued that section 286.1 is arbitrary, grossly disproportionate and overbroad because “it captures non-exploitative, consensual sex work in the net of criminal liability and prevents sex workers from availing themselves of protective measures.”⁶³ In contrast, [Professor Benedet](#)’s brief argued that the law is constitutionally sound. She said that buyers and pimps do not have the right to buy sex or profit from the exploitation of others and “The *Charter* does not require that such actors be decriminalized in order to benefit or assist women in prostitution.” She said that the section 7 analysis would now be different than in *Bedford* since buying sex is now illegal and women are not at risk of arrest so they can take the time required to screen clients. The objectives of the law have also changed and now denounce the purchase of sex, promote equality and acknowledge the exploitative nature of prostitution and its disproportionate impact on women and children. She also noted that *Bedford* excluded a section 15⁶⁴ equality analysis and stated that “Prostitution is a violation of women’s right to equality...”

Criminalizing Advertising

Section 286.4 makes it an offence to knowingly advertise “an offer to provide sexual services for consideration.” Section 286.5(1)(b) provides immunity from prosecution for anyone advertising their own sexual services.

According to the [St. John’s Status of Women Council](#), the availability of advertising facilitates indoor work, which allows for better safety planning, use of support staff and screening of clients. While a sex worker is permitted to advertise, any newspaper, website or internet service provider that is involved can be charged.⁶⁵

63 Arbitrary, grossly disproportionate and overbroad laws are counter to the principles of fundamental justice in section 7 of the Charter.

64 Section 15(1) of the *Charter* states:

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

65 Also see [Brief](#), p.5 (Canadian Alliance for Sex Work Law Reform); JUST, [Brief](#), 18 March 2022, p. 2 (Canadian Bar Association).



In addition, [SWAN](#) told the Committee that sex workers with language barriers cannot be assisted by others without risk of criminalization. According to [Butterfly](#), migrant sex workers, in particular, rely on others such as friends, family and clients to help post advertisements due to barriers relating to language and access to technology. They said that now that this is a criminal offence, fewer people are willing to help.

Despite the illegality, the new advertising offence has not entirely stopped advertising. Previously, there were lower cost or free options but, with criminalization of advertising under PCEPA, websites closed down or began charging or increasing fees, according to [Butterfly](#). Sex workers also use advertising sites outside Canada, reportedly at much higher cost, use less reputable sites that may share their information without permission, or turn to street-based sex work, which can be more dangerous.⁶⁶

The Committee was told that advertisements cannot be as explicit as prior to PCEPA. Without clear communication, misunderstandings can happen and lead to violence, according to [Ms. Porth](#). Limits on advertising also require communications regarding boundaries, prices and so forth to occur in person, making it less safe than if this was done prior to meeting.⁶⁷

Employment ads in the sex industry have also become less common, meaning that it is harder to leave an unfavourable or unsafe work situation for other employment.⁶⁸ In addition, online advertising spaces have been a place for sex workers to connect, share bad date reports and sexual health information, and for service providers to reach sex workers. However, criminalizing advertising for everyone other than the sex worker has removed space for such discussions, according to [PACE and Pivot Legal Society](#).

[Kevin B. Westell](#), Secretary, Criminal Justice Section, Canadian Bar Association, told the Committee regarding section 286.2 and 286.4 of the Code:

The sheer volume of litigation dealing with the breadth of these provisions and its impact on their constitutionality, militate, we say, for amendments narrowing those provisions.

The [Canadian Centre for Child Protection](#) called for amendments to distinguish between advertisements of minors and adults, ensure such images are removed from online platforms and have police and judges consider whether advertisements including minors

66 [Brief](#), p.3 (Centre for Gender Advocacy); [Brief](#), p.4 (St. John's Status of Women Council).

67 [Evidence](#) (Ka Hon Chu); [Evidence](#) (Porth); [Brief](#), p.5 (Canadian Alliance for Sex Work Law Reform); JUST, [Brief](#), 17 February 2022, p. 4-5 (SWAN).

68 [Brief](#), p.3 (Butterfly).

may be considered child pornography. [PDF Québec](#) stated that police do not have the tools to intervene easily and quickly to shut down advertising sites.

Criminalizing Those Who Profit Financially from the Sex Work of Others

The procuring and living off the avails provisions were amended in PCEPA to provide a certain level of immunity to individuals in legitimate arrangements free of exploitation with persons selling sexual services. Section 212 of the Code (including living off the avails) was repealed and section 286.3 (procuring) was created. In addition, offences were added by section 286.2 for persons who receive a financial or other material benefits from the sexual services of another individual. Section 286.2 includes exceptions where there is no exploitation.

As noted by [Ms. Levman](#):

[T]he parliamentary record indicates that the legislative exceptions to the material benefit offence mean that sellers of their own sexual services may interact with others on a personal or commercial basis in the same way as anyone else, including if they want to rent particular locations or hire persons to provide services for fair market value. The bill's immunity provision means that they will not be held criminally liable for providing sexual services independently and co-operatively, including by pooling resources to pay for services that are excepted by the material benefit offence.

However, there appears to be significant confusion and debate as to what is permitted by section 286.2 of the Code, even with the Court of Appeal for Ontario decision in [N.S.](#) discussed in more detail below. As noted in the previous section, the volume of litigation regarding section 286.2 is a sign that the section may need to be clarified.

[SWAN's](#) brief challenged the presumption of exploitation in such relationships:

Having met many third parties in two decades of doing this work, we can confidently assert that the majority of third parties are not traffickers or exploiters...

However, this is not meant to say that unfair or exploitative labour practices do not occur...These issues are best dealt with through employment standards, not criminal law or the police. But with PCEPA, there is little to no recourse for unfair employment practices.⁶⁹

If sex work were entirely decriminalized or legalized in Canada, employment standards would be within provincial jurisdiction.

69 [Brief](#), p. 3-4 (Roots et al.).



The [AESHA Project](#) found that 30% of sex workers hired administrative support or security, which were directly linked to an 84% increase in occupational health and safety. However, as noted above, PCEPA was linked to a 31% reduction in the odds of accessing such supports.⁷⁰ [PACE and Pivot Legal Society](#) argue in their joint brief that, by preventing commercial enterprises, section 286.2 prevents the managed indoor locations that *Bedford* found to be safest for sex work.

An [nswp, Global Network of Sex Work Projects](#) brief noted that research shows the majority of individuals who profit financially from the sex work of others are current or former sex workers. [Sophia Ciavarella](#), Operations Manager at Peers Victoria Resources Society, explained the role of escort agencies in providing safety and mentorship to newer sex workers. In her community, these businesses are women-run and desirable settings to work. However, they are prohibited by the *Criminal Code* according to Ms. Ciavarella. Similarly, the [Centre for Gender Advocacy](#) brief challenges the narrative about massage parlours, saying they are, “a place you will often find joy, laughter, friendship, a warm place to sleep, and financial stability.”

[Action Canada for Sexual Health and Rights](#) said in its brief:

The blanket prohibition on “material benefits” in the context of a “commercial enterprise” disproportionately harms racialized, migrant, and lower-income women. Among people who sell or trade sex, it is typically the more economically and socially privileged who have the resources to establish and manage their own businesses, whether independently or as cooperative endeavours, and create safe spaces to work. For those with fewer resources, escort agencies and massage parlours provide or cover the cost of essential infrastructure and administration.⁷¹

[Ms. Sayers](#) explained the importance of having a driver as an Indigenous sex worker in northern Ontario where there are no buses. Cabs are expensive and have dropped Indigenous women in spots they did not ask to go. The [Canadian Alliance for Sex Work Law Reform](#) told the Committee that Indigenous sex workers rely heavily on family for safety because they are trusted, but sections 286.2 and 286.3 criminalize these relationships even when they are not exploitative.

[Ms. Barile](#) stated:

I think that’s one of the most harmful parts of PCEPA: It prevents sex workers from working together, from sharing information about how to work safely and from creating safety measures for each other and looking out for each other. Certainly, in the trans

70 Also see [Evidence](#) (Krüsi); [Brief](#), p. 2 (Lazarus).

71 Also see [Brief](#), p. 5 (Butterfly).

community, that has historically been so important for maintaining trans sex workers' safety. It's the ability to work together, and PCEPA expressly prohibits that.

[Elene Lam](#), Executive Director of Butterfly, explains the challenges relating to the rules as follows:

Essential systems for migrant sex workers, including friends, third parties and clients, are being framed as traffickers. They are arrested when they help each other. Almost 200 women were charged for procuring and advertising in the last few years. One of the sex workers was arrested just because she helped other workers to advertise, communicate and screen clients.

[Triple-X Workers' Solidarity Association of B.C.](#)'s brief states that the law does not contemplate sex workers organizing unions or professional associations or the possibility of such organizations collecting membership dues, and providing services such as advertising and promotion of the industry. They call for amendments to clearly permit such organizing by sex workers.

The [St. John's Status of Women Council](#) argued that other provisions address exploitation and that section 286.2 is unnecessary. [Melissa Lukings](#), Juris Doctor, Author and Researcher, told the Committee that the exploitation concerns often overlap with situations of domestic violence and called for the repeal of PCEPA and the introduction of a coercive control offence. She saw this, along with existing laws, as "fixing the issue by helping those who need the help without harming others."⁷²

[Professor Benedet](#), in contrast, believed that the material benefit offences protect women from violence and other harms. She notes in her brief:

There is widespread agreement that profiting from the prostitution of someone else carries with it the potential for exploitation; the profiteer has an incentive to keep the source of the profits in prostitution and a disincentive for interfering with male buyers who cause harm. The Supreme Court of Canada in *Bedford* recognized such offences have a valuable and valid objective, but it found that the previous living on the avails offence was overbroad.

The current "material benefit" offence contains a list of exceptions which were carefully designed to respond to the holding in *Bedford* that the living on the avails offence prevented women in prostitution from paying others for protection.

The [Evangelical Fellowship of Canada](#) expressed support for the decision in [R. v. N.S.](#) and the confirmation that sex workers can work cooperatively to obtain services such as

72 JUST, [Brief](#), 25 February 2022, p. 7 (Michelle Abel), also recommends amendments to address coercive control.



security and can give advice to others who have decided to sell sexual services. Their brief states that some of the concerns expressed above are based on a misunderstanding of PCEPA. They are also supportive of the procuring offence in section 286.3 of the Code, expressing concern that exploitation would increase if it were repealed.

The Committee notes that, while there are exceptions to the rules in section 286.2 of the Code, there are also exceptions to the exceptions, making it a complex set of rules to understand. It appears that significant confusion exists regarding what is or is not permitted and establishing the line between consensual assistance and exploitation can be challenging in practice, discouraging even legitimate relationships that could support sex workers' safety and well-being. Greater clarity would be beneficial.

Communicating in Public Places

Section 213(1) makes it an offence to, in a public place or public view, stop or attempt to stop a motor vehicle or impede traffic for the purpose of offering, providing or obtaining sexual services for consideration. Both sellers and clients may be charged. Sections 213(1)(a) and (b) of the *Criminal Code* (stopping or impeding traffic) were not constitutionally challenged in *Bedford*.

Section 213(1.1) was introduced through PCEPA and makes it an offence to communicate with a person for the purpose of offering or providing sexual services for consideration "in a public place, or in any place open to public view, that is or is next to a school ground, playground or daycare centre." Only the seller can be charged with this offence, as an equivalent offence is outlined in section 286.1 of the Code for clients. Section 213(2) defines a public place as "any place to which the public have access as of right or by invitation, express or implied, and any motor vehicle located in a public place or in any place open to public view."

These are the provisions that still criminalize individuals solely for selling their own sexual services. As noted above in the section on the criminalization of clients, sex workers rush to get in the car rather than negotiating with clients from a safer position outside the car. They also go to less safe areas to be away from the places they are not allowed to solicit.⁷³ The [Canadian Alliance for Sex Work Law Reform](#) noted that these provisions affect the most marginalized, who work on the street, and that a similar section 213(1)(c) (stopping a person) was struck down in *Bedford*.

73 [Evidence](#) (Wesley); [Evidence](#) (Chevrier); [Evidence](#) (Porth).

The continued criminalization of those who sell sex was criticized by some witnesses. As [Ms. Jay](#) stated, “Keep your focus on the exploiters, and stop punishing women for being exploited in public view.” Repeal of section 213 was the only recommended amendment to the Code that crossed the divide between those who want to keep and repeal PCEPA.⁷⁴ For those who wanted to maintain criminalization of clients, the provisions targeting them were seen as sufficient to address concerns about sex work near locations identified in section 213.⁷⁵ Some witnesses also recommended expunging criminal records of sex workers.⁷⁶

In contrast, [PDF Québec](#) recommended maintaining section 213(1) to “prevent members of communities in which prostitution is practiced from being harassed by those who buy and sell sexual services.” A couple of other witnesses expressed similar concerns regarding men in certain neighbourhoods regularly approaching women and girls for sex and the impact that had on community members.⁷⁷

[Jeneane S. Grundberg](#), Chair, Municipal Law Section, Canadian Bar Association, called for amendments for clarity (the CBA took no position on whether to decriminalize sex work). She criticized the definition of a public place as being circular and not providing “any meat or ... any additional context.” She said there can be ambiguity because the terms are not defined. For example, could a playground be inside, she asked? There are also areas that children frequent that are not listed. She recommended adding definitions to section 213(1.1) and including other places that children frequent such as swimming pools, recreation facilities and shopping malls.⁷⁸

[PDF Québec](#) suggested amendments to include cyberspace in the definitions of “place” and “public place.” [PACE and Pivot Legal Society](#) also expressed concern that “next to” is not defined. [Mr. Westell](#) noted:

There's no public interest in having sex work occur in these public areas that are designated for children, families and certain types of uses, but if they're going to do that and quite rightly carve away those opportunities for sex work to occur there, we need to allow other provisions to give way so that it's easier for hotels, Airbnb and places like

74 See, for example, [Evidence](#) (Clamen); JUST, [Evidence](#), 22 March 2022 (Diane Matte, Co-coordinator, Concertation des lutes contre l'exploitation sexuelle).

75 [Evidence](#) (Matte); JUST, [Brief](#), 4 March 2022, p.2 (Asian Women for Equality); JUST, [Brief](#), 25 February 2022, p. 4 (Resist Exploitation, Embrace Dignity).

76 [Evidence](#) (Allison); JUST, [Evidence](#) 4 March 2022 (Suzanne Jay, Collective Member, Asian Women for Equality); [Brief](#), p. 4 (Resisting Exploitation, Embrace Dignity); [Brief](#), p. 2 (CEASE); [Brief](#), p. 8 (Defend Dignity).

77 [Evidence](#) (Heinz); [Evidence](#) (Quinn); [Brief](#) (Nixon).

78 Also see [Brief](#), p. 3-5 (CBA).



that to be used. Right now, if somebody engages in allowing Airbnb to be used for that purpose, they're a party to the purchase of sexual services and a party to a crime.

Constitutionality of PCEPA

A number of cases before the courts have challenged the constitutionality of PCEPA or parts thereof, with conflicting results at the trial level. As noted by [Ms. Levman](#), speaking prior to the recent decision in [R. v. N.S.](#):

One of the main issues the court is grappling with is the scope of the material benefit and procuring offences, and in particular whether they capture sex worker co-operatives or sex workers who help each other. The parliamentary record, as I've said, indicates that these activities are not intended to be captured, but some decisions have found otherwise, so it's a live statutory interpretation issue that has to be resolved prior to assessing the provisions for [C]harter compliance.

[Ms. Levman](#) also pointed out that the objectives of PCEPA are different than they were when the *Bedford* decision was made, which could affect court decisions.

In [N.S.](#), the Court of Appeal for Ontario found the material benefit and advertising provisions constitutional. That case did not address the prohibition on purchasing sex. As explained in the [Evangelical Fellowship of Canada's](#) brief, the court confirmed that sex workers can work cooperatively and provide advice to someone who has decided to sell sex.

[Ms. Allison](#) was unsure what the Supreme Court of Canada would decide if the case made it to that court. [Ms. Clamen](#) was critical of the decision in *N.S.* because it only considers a cooperative where everybody is independent and contributing equally, which she told the Committee is not generally how such relationships work in the sex trade.

The [Canadian Alliance for Sex Work Law Reform](#) is challenging the entire regime in the Code.⁷⁹

Decriminalization

Many of the arguments presented to support decriminalization relate to the critiques of criminalization outlined in the section above about the Nordic model so will not be repeated here. [Amnesty International](#) noted that they, along with the Global Alliance

⁷⁹ Canadian Alliance for Sex Work Law Reform et al. v. Attorney General of Canada, Ontario Superior Court of Justice, Case Number CV-21-00659594-0000.

Against Traffic in Women, Global Commission on HIV and the Law, Human Rights Watch, UNAIDS, the United Nations Special Rapporteur on the Right to Health, and the World Health Organization, all call for decriminalization.

The [ANSWER Society](#) outlined some of the benefits of sex work for them and their families:

Sex work is not for everyone but for those of us that are comfortable with our business, it has been a lifeline. We can feed ourselves without going cap in hand to the government for social assistance; we can choose our hours and our shifts to suit our lives and those of our families. It fits well for those of us when we suffer downtime from depression - something a regular job cannot offer. Those of us with physical disabilities that prevent us from working regular hours can work when they feel well.

A number of witnesses challenged the idea that exploitation is inherent in sex work and that all such work should be criminalized.⁸⁰ For example, [Queer Ontario](#) noted that people with disabilities may “require assistance in self-pleasuring or to engage in consensual sexual relations with chosen others,” and decriminalization would allow for such assistive care.

Proponents for decriminalization argued before the Committee that exploitation in the workplace should be addressed through employment standards, not the criminal law.⁸¹ Under criminalization, [Ms. Wesley](#) explained:

If our boss refuses to pay us, well, there’s no tribunal we can go to for that. If our workplace is unsafe, there’s no occupational health and safety commission that can come in and help us with that problem.

...

What this means is that if someone works in, say, an escort agency, and everything is great, well, her colleagues are committing exactly the same crime as a boss who’s beating the employees, taking all their money and doing all kinds of other things.

The ability to negotiate with clients and have workplace health and safety and other benefits in a decriminalized context were seen as key for [Ms. Wesley](#). [Ms. Ka Hon Chu](#) told the Committee that research on HIV transmission found that decriminalizing could reduce transmission by 33%–46% over ten years.⁸²

80 See, for example, [Brief](#) (Durocher).

81 See, for example, JUST, [Brief](#), p. 3 (Queer Ontario); [Brief](#) (SWAN).

82 Also see [Brief](#), p. 6 (Direction Régionale de santé publique de Montréal).



[Ms. Wesley](#) argued against legalization and for decriminalization because legalization would create a strict legal framework and everyone outside that framework, often the most marginalized, would still be criminalized. Proponents for decriminalization also challenged the idea that only the privileged are advocating for decriminalization since criminalization actually affects the marginalized most severely.⁸³

Several witnesses mentioned that there are other provisions of the Code to address exploitation and violence, such as kidnapping, sexual assault, human trafficking and child pornography offences, and that the provisions on sex work are unnecessary.⁸⁴ Similarly, [Maxime Durocher](#)'s brief states:

The PCEPA is based on puritan values, treating sex as something either evil or sacred, and leaves no room for our views, positive or even neutral. The *Criminal Code* already contains the provisions necessary to fight exploitation, sexual or not. The PCEPA is useless; it serves only to stigmatize, segregate and erase us.

[Freedom United](#) said decriminalization:

is a crucial and necessary path to preventing human trafficking. Human trafficking remains a crime when those offences are removed, and the latter builds resilience to trafficking by affording sex workers the ability to negotiate safer working environments and communicate with each other to prevent exploitation from happening in the first place.

In contrast, [Ms. Heinz](#) said decriminalization would remove “Canada’s strongest tool for deterring and addressing exploitation,”⁸⁵ and would support market expansion. She also noted the high threshold for human trafficking charges to stick if the offences regulating sex work were removed from the Code. [Diane Matte](#), Co-coordinator, Concertation des luttes contre l’exploitation sexuelle, spoke of experiences of decriminalization elsewhere, saying demand and trafficking have increased.⁸⁶

[Ms. Jay](#) said:

You might hear opinions that a human trafficking law is enough, but that law focuses on only the traffickers. A human trafficking law gives a free pass to the man who buys sex from a trafficked woman. The advertising platforms that helped him find her also get a

83 See [Evidence](#) (Wesley); [Evidence](#), (Duffy); JUST, [Brief](#), p. 8-9 (Morgan Donaldson et al.).

84 [Evidence](#) (Wesley); JUST, [Evidence](#), 15 February 2022 (Miia Suokonautio, Executive Director, YWCA Halifax); [Evidence](#) (Big Canoe); JUST, [Evidence](#), 4 March 2022 (Sophia Ciavarella, Operations Manager, Peers Victoria Resources Society; Clamen; Duffy).

85 Also see [Evidence](#) (Brandt); [Brief](#), p. 2 (ARPA); [Brief](#) (ICOSE).

86 Also see [Evidence](#) (Benedet); JUST, [Brief](#) February 2022 (Aboriginal Women’s Action Network).

free pass. The act is valuable because it criminalizes the advertising of prostitution. It empowers police to interrupt the Internet platforms that package, brand and market prostitution.

[Ms. Peters](#) expressed fear that “Canada will become a global sex tourism designation and America’s brothel.” [Ms. Stevenson](#) said:

As ideological as it might be to draw a line around consensual sex workers and suggest that PCEPA must be repealed to keep them safe, it is unrealistic. The decriminalization of sex work will result in collateral damage that looks like an entire population for whom a lifetime of complex trauma will be the cost of living in Canada.

For [Ms. Stevenson](#), gender equality, reconciliation with Indigenous people and universal education on consent, healthy relationships and exploitation are required before decriminalization could take place without causing harm.

While some witnesses said employment and labour standards would apply,⁸⁷ [Ms. Allison](#) said that in legalized and decriminalized regimes, individuals who sell sex are considered independent contractors, meaning they do not receive employee benefits and are not subject to employment standards.⁸⁸

With such diverging views and experiences before us, it was challenging for the Committee to develop specific recommendations regarding which provisions should be kept, repealed or amended or to come to a decision as to whether to repeal PCEPA’s provisions concerning sex work entirely. The Committee acknowledges that those we heard from who are working in the sex industry do not feel that the *Protection of Communities and Exploited Persons Act* protects their safety and that improvements must be made.

Recommendations

Recommendation 2

That the Government of Canada recognize that protecting the health and safety of those involved in sex work is made more difficult by the framework set by the *Protection of Communities and Exploited Persons Act* and acknowledge that, in fact, the Act causes serious harm to those engaged in sex work by making the work more dangerous.

87 See, for example, [Evidence](#) (Wesley); [Evidence](#) (Ka Hon Chu); [Evidence](#) (Porth).

88 Also see [Brief](#), p. 3 (King).



Recommendation 3

That the Government of Canada amend the *Protection of Communities and Exploited Persons Act* by introducing legislation to repeal sections 213 and 286.4 of the *Criminal Code*.

Recommendation 4

That the Government of Canada continue to monitor court cases pertaining to the provisions of the *Criminal Code* concerning sex work between consenting adults.

Recommendation 5

That the Government of Canada encourage data sharing about the sex industry in Canada, and support study into discrepancies in data and conclusions on the topic identified during the Committee’s study.

CHAPTER 5: RELATIONSHIP BETWEEN SEX WORK, EXPLOITATION AND HUMAN TRAFFICKING

Witnesses had very different perceptions of the relationship between sex work and human trafficking and the impact repealing PCEPA would have on trafficking victims. While not the focus of this report, given the volume of testimony on the topic, the Committee has chosen to briefly address it. While exploitation and human trafficking are found in the sex industry, it is important to distinguish sex work by adults from situations of exploitation and human trafficking of minors and adults. By conflating the two, and assuming there is exploitation and violence in all sex work, we miss the real violence and exploitation that we need to be addressing.

One of the challenges identified was how to differentiate when someone is willingly engaged in sex work and when they are being forced or trafficked. [Ms. Baptie](#) spoke of her own experiences from ages 13 to 28, noting the complexity of being viewed as an “empowered woman choosing [prostitution]” when she became an adult, without regard for her history. She asked:

Once you put it in an office space, once you put prostitution behind doors, how do we know who is behind those doors? What is happening behind those doors? Who put those doors there in the first place? How do we know they're safe? How do we know they're not trafficked? How do you know they're over age? As soon as we lose the ability to monitor what's happening, it kind of turns into the Wild West and will just

keep increasing and spreading when, for equality's sake, we should be working to end it.⁸⁹

For others, sex work and trafficking are distinct and decriminalization would allow for better targeting of human trafficking.⁹⁰ [Ms. Lukings](#) said:

By criminalizing the whole sex work community, you are essentially eliminating all of your allies... Where you would have sex workers report suspicious things in a decriminalized context, you're not getting that right now. Where you would have clients recognize red flags and be able to report things, you're not having that now.

[Freedom United](#)'s brief says:

Equating "prostitution," or sex work, with commercial sexual exploitation and positioning it as inherently violent against women obfuscates the distinction between an informed transaction between consenting adults engaging in sexual activities and the subjective fear for one's safety and life, coercion, threat and manipulation that is present in human trafficking. The criminalization of many aspects of sex work actively disempower sex workers, instead empowering abusers by creating an environment where violence against women in the sex trade can thrive because their fear of police detection of themselves, their clients, or people they work with often trumps their pursuit of protection from the law.

The Committee was told about how the offences relating to sex work and trafficking are used in the investigation and prosecution of cases. [Superintendent Byrne](#) said that re-telling their story multiple times can be re-victimizing or a victim may refuse to testify, and police may choose to pursue charges that do not require victim testimony. For this reason, prosecutors may use the sex work-related offences to ensure offender accountability, whereas a trafficking conviction would have required victim testimony. She also said that sex work-related offences are used to gather evidence and seek judicial authorization.

[Ms. Davis](#) was critical of this approach:

The use of prostitution laws has become the default in absence of effective human trafficking legislation. There are many laws that can be used to fight violence against sex workers without defaulting to prostitution laws.

Similarly, the [Sex Workers of Winnipeg Action Coalition](#) said, "We have laws that aren't over-broad to address exploitation that don't create stigma around sex work."

89 Also see [Evidence](#) (Quinn).

90 [Evidence](#) (Elene Lam); [Evidence](#) (Porth).



The Committee is sympathetic to the challenges faced by police and prosecutors in proving exploitation and trafficking in cases. However, we are also concerned that witnesses are saying that sex work-related offences are necessary because it is too difficult to get convictions for trafficking and other offences requiring them to establish that exploitation occurred. Following this logic, a broad group of sex workers, clients and others are subject to criminalization, despite a lack of exploitation, in order to protect this other group, which raises important Charter, safety and ethical issues.

Recommendations

Recommendation 6

That the Government of Canada take action to address issues of exploitation and trafficking of women and children by strengthening other measures in the *Criminal Code* where appropriate, by making additional resources available to victims and to law enforcement agencies working to combat exploitation, and by considering making coercive and controlling behavior in intimate partner relationships a criminal offence as proposed in Bill C-202, An Act to amend the Criminal Code (controlling or coercive conduct), and the unanimous 2021 report of this Committee.

Recommendation 7

That the Government of Canada introduce legislation to strengthen the *Criminal Code* provisions on exploitation and human trafficking prior to making any legislative changes aimed at decriminalizing sex work.

CHAPTER 6: MISTRUST OF POLICE

During the Committee's hearings, the role of trust in the police was discussed by multiple witnesses. [Superintendent Byrne](#) told the Committee that, more important than the actual Code provisions in protecting sex workers, is trust in police:

When I meet with community, I can say that the key to protecting sex workers is having open dialogue and encouraging them to come forward to report crimes and to feel comfortable with the police. That is the largest barrier I see, more so than any of the Criminal Code offences or any amendments.⁹¹

91 Also see *Correspondence* (Centre for Gender & Sexual Health Equity).

She said sex workers do not fear enforcement by the Vancouver Police Department because they are not doing enforcement unless there is violence, organized crime or exploitation of children involved.

In contrast, [Dr. Katrin Roots, Dr. Ann De Shalit and Dr. Emily van der Meulen](#) noted in their joint brief that studies have found that some sex workers are more concerned about safety from police than from their clients or those who profit financially from their sex work. They also referenced a study of 367 sex workers which found 38% of participants who had experienced violence reported it to police (only 13% of migrant women). This data is similar, but not identical to the data mentioned about from the [AESHA Project](#). The five-city study by [Dr. Shannon, Dr. Bruckert and others](#) found that, of those sex workers who experience violence or confinement at work, only 17% reported the incident. Almost 60% of sex workers in that study had experienced police harassment in the past 12 months, with 56% of those being called a slur such as “whore” by the police.⁹² [Trans PULSE Canada](#) conducted a study that included 280 transgender and non-binary sex workers that found that, while they experienced high levels of violence, they avoided calling 911 (51% avoided calling police and 36% avoided calling emergency medical services in the previous 5 years).

Studies discussed by [Dr. Benoit and Dr. Mellor](#) in their brief found sex workers have low police reporting rates due to a variety of reasons including past experiences with police, including physical and sexual assault by them, police misconduct such as delayed response and stigma and discrimination toward sex workers by police.

[Ms. Wesley](#) described operations by Montreal police to encourage hotels and taxi drivers to identify sex workers and inform the police, meaning sex workers could no longer use hotels safely. Police operations have also targeted sex trade establishments, arriving with 10–30 officers, and detaining all the women on-site to verify their identification. In one raid, police took note of all piercings and tattoos and told the women they were doing it to be able to identify their dead bodies. While not necessarily leading to arrests, Ms. Wesley said that such experiences create a climate of terror for sex workers.⁹³

[Butterfly’s](#) brief describes the impact of police raids on Asian and migrant sex workers. Workplaces may be closed down after raids, resulting in individuals being forced to work in more isolated locations and sometimes move to smaller cities or towns where they are further from those who speak their language and from other sex workers and community supports. Others start operating out of apartments and report more

92 Also see [Brief](#), p. 4-5 (Amnesty International); [Brief](#), p.3-4 (Benoit and Mellor).

93 Also see [Brief](#) (St. John’s Status of Women Council) regarding the impact of undercover operations.



robberies because of reduced security in comparison to their previous commercial establishment, as well as greater pressure to perform services they do not want to.

Showing Up For Racial Justice said in their brief:

The extra scrutiny faced by BIPOC [Black, Indigenous and People of Colour] sex workers as a result of PCEPA results in an increase in underground work. Workers who are hyper-visible to the police, must hide. This means that they must also hide from the public, from their own communities and from social services. They are less likely to be reached by community supports and less able to negotiate for better working conditions. All of this increases BIPOC sex workers' isolation and exposure to more exploitative working conditions.

Ms. Duffy told the Committee about a Toronto community member, Alloura Wells, who went missing in 2017. She was a Black and Indigenous transgender woman whose father contacted police but was told that the case was not a priority. The community formed search parties and, five months later, police issued a missing person report. A body was found soon after, but police did not inform Wells's father or the community. Maggie's found out from the person who found the body, which was later identified as Wells's.

The Aboriginal Women's Action Network said:

A major factor contributing to the absence of attention given to the women who have gone missing ...in Vancouver is the lack of police response, and the insidious societal belief that these women were not worthy of protection, a message that is explicitly conveyed to the johns, giving them the go-ahead to act toward these women with impunity.

Several witnesses spoke about the impact of sex workers' mistrust and fear of police.

Alison Clancey, Executive Director, SWAN Vancouver Society, told the Committee:

PCEPA is often the entry point for police into immigrant and migrant sex workers' lives via investigation of clients, neighbours' reporting sex work activity, or other reasons. With PCEPA as the gateway, the women SWAN serves have only ever seen two outcomes after initial PCEPA-related interaction with police: the woman herself becomes the target of an anti-trafficking investigation or she is arrested, detained and deported.

Repeatedly women have told SWAN that they fear police more than predators. Therefore, the women do not report violence.

PCEPA has been a gift to predators and traffickers.⁹⁴

94 Evidence (Clancey).

The [Iskweu Project](#) of the Native Women’s Shelter of Montreal said in its brief:

In our experience working with Indigenous sex workers, law enforcement of any kind has been a detriment to their safety. We have overheard many testimonies of how police interfere in Indigenous sex workers lives that further contribute to their marginalization, criminalization and complete distrust of institutions. In the cases that we have worked on where the Indigenous wom[a]n was being exploited, the way we were able to assist the person was through community resources, and not through police. It is clear that given the long history of colonization that Indigenous women in the sex trade do not want to deal with police...

[Ms. Barile](#) said:

Many of the trans sex workers in our study avoided police contact at all costs, including after being assaulted at work, because contact with the police and being known to the police as a sex worker created a cycle of worsening legal problems for them, such as criminal inadmissibility within the immigration system, increased barriers to housing and employment and escalating criminal charges exacerbated by constant and sometimes violent encounters with the police. Improved police training or access to legal resources would not resolve these women’s legal problems, because PCEPA itself has caused these problems. It’s PCEPA that gives police the power to enter their homes and workplaces.⁹⁵

One reason for not reporting is a lack of police action in the past. [Ms. Suokonautio](#) said that charges against “bad dates” for violence have not increased. [Ms. Ciavarella](#) told the Committee that, despite a positive working relationship between her organization and the Victoria Police Department, they saw no arrest or formal charges for any of the violence they supported sex workers in reporting to police.

[Ms. Kent](#) told the Committee that exploiters are teaching sex workers, particularly youth, to be afraid of police so that information does not come out that the exploiters have harmed or assaulted them. [Ms. Baptie](#) said that she knew women who had gone to the police and said she didn’t “understand the thinking that women aren’t going to the police if they’ve been harmed.” [Joy Smith](#), Founder and President, Joy Smith Foundation Inc., mentioned over a thousand individuals out of the 6,000 she has worked with went to police. While many of the witnesses quoted above felt that relations between sex workers and police could only improve with the repeal of PCEPA, the [Asian Women for Equality](#) brief stated the opposite, “Informed and adequate enforcement of the Act would change women’s experience of Canadian police and have an impact on organized crime.”

95 Also see [Evidence](#) (Lindstrom); JUST, [Brief](#), 18 February 2022, p.6 (Dr. Ayden Scheim, Dr. Greta Bauer and Trans PULSE Canada).



Recommendation

Recommendation 8

That the Government of Canada identify, share and promote best practices for building trust between police and sex workers so that more sex workers perceive the police as a source of protection and are effectively served by police.

CHAPTER 7: IMPLEMENTATION AND ENFORCEMENT

Several witnesses said that it was difficult to assess the impact of PCEPA or have reliable statistics because the act has not been fully implemented across the country.⁹⁶ [PDF Québec](#) noted:

After seven years of implementation of the PCEPA, it is surprising to see the low number of reports of offences related to the purchase of sexual services in the country, when "most women in prostitution report experiencing an average of five clients per day; some, more than twenty."⁹⁷

For [Ms. Kent](#), training and education for police to implement PCEPA is needed because the law itself is not what is harming people and it has the potential to protect sex workers. She clarified, "There are the provisions and then there is the operation. We need to marry those."⁹⁸

[Ms. Peters](#) argued that police need more funding and training to enforce the law. She was critical of B.C. law enforcement for not knowing or enforcing PCEPA, unlike Ontario, and said this has resulted in parts of that province becoming "a global sex tourism destination."

The Vancouver police engaged with sex workers and decided not to prosecute the sex work-related offences because that pushed sex workers into more dangerous areas. They learned from the Pickton pig farm experience, according to [Ms. Big Canoe](#). [Ms. Allison](#) said that other police forces in B.C. have followed suit and are not arresting

96 See, for example, [Evidence](#) (Baptie; Peters); [Evidence](#) (Kent); [Evidence](#) (Heinz); [Brief](#), p. 2 and 4 (Brown); [Brief](#) (Nixon).

97 For details on charges, see Mary Allen and Cristine Rotenberg, Canadian Centre for Justice and Community Safety Statistics, "[Crimes related to the sex trade: Before and after legislative changes in Canada](#)," *Statistics Canada*, 21 June 2021.

98 For more on the importance of universal implementation see, for example, [Evidence](#) (Smiley); [Brief](#), p. 7 (Doltze); [Brief](#), p. 2 (Canadian Council of Churches); [Brief](#), p. 7 (Christian Legal Fellowship); JUST, [Brief](#), 22 March 2022, p. 2 (CLES); [Brief](#), p. 7 (ICOSE).

purchasers of sex. [Superintendent Byrne](#) said, “The focus of the police has been to target predatory offenders and organized crime groups exploiting vulnerable victims.” She credited enforcement guidelines and engagement with the sex worker community for the success of Vancouver’s approach.⁹⁹ [Ms. Porth](#) agreed, but told the Committee that Vancouver police continue to harass street-level sex workers.

In contrast, PCEPA is enforced in London, Ontario, as well as Edmonton, Saskatoon and Winnipeg according to witnesses.¹⁰⁰ A number of witnesses called for consistent application nationwide.¹⁰¹

[Superintendent Byrne](#) clarified that enforcement varies across the country for criminal laws generally, that this issue is not unique to sex work and it will continue unless national guidelines are developed. Such guidelines would need to respect provincial jurisdiction over the administration of justice.

The Committee understands the approach taken in British Columbia to focus enforcement on the situations involving exploitation and minors. However, the significant differences in enforcement in this area of the law nationwide are potentially concerning.

Recommendation

Recommendation 9

That the Government of Canada study how more consistent application of the *Protection of Communities and Exploited Persons Act* across the country could be encouraged.

CHAPTER 8: INDIGENOUS, MIGRANT AND RACIALIZED EXPERIENCES

[Ms. Allison](#) told the Committee:

99 For more details, see JUST, [Brief](#), 22 April 2022 (City of Vancouver).

100 [Evidence](#) (Lindstrom); [Brief](#), p. 1 (Defend Dignity).

101 [Evidence](#) (Peters); [Evidence](#) (Allison; Brandt); [Evidence](#) (Jay).



Prostitution has a hierarchy that is both classist and racist. The poorest, the racialized and the most vulnerable are at the bottom. Not only that, but prostitution encourages racism, as buyers seek out experiences linked to racist stereotypes.¹⁰²

Indigenous, Black and racialized, transgender and migrant women and people living in poverty are overrepresented in street-based sex work, according to [Ms. Duffy](#), which can be the most dangerous work.

[Showing Up For Racial Justice](#) explained:

As with most industries, exploitation is often the result of discrimination, poverty, and other precarious circumstances. PCEPA does not address any of these issues, it only exacerbates them. When people's choices are limited due to poverty and racial inequality it is harmful to reduce their choices even further. Punitive regulations such as PCEPA further reduce BIPOC sex workers' ability to earn a living and stay housed, and thereby contribute to disproportionate rates of poverty for workers already marginalized by injustice and inequity.

[Ms. Duffy](#) also explained:

For racialized and [I]ndigenous sex workers, [PCEPA] increases contact with police, it increases surveillance and it increases targeting, while also discouraging marginalized communities from being able to approach police and other social services for support.

The [Trans PULSE](#) survey of transgender and non-binary people found that police mistreatment, mistrust and avoidance were high generally in that community, but they were markedly higher for Indigenous and racialized sex workers than white sex workers within the community. Ninety-five percent of Indigenous sex workers and 84% of racialized sex workers anticipated police harassment and more than half had experienced unreasonable police stops, searches or arrests. Fewer than 5% of Indigenous and racialized sex workers anticipated fair treatment by police or courts in cases of physical or sexual violence.¹⁰³

Not all witnesses thought PCEPA negatively affected Indigenous and racialized people. [Superintendent Byrne](#) told the Committee that Indigenous communities she has met with in Vancouver support the law and believe it protects the women in their communities from being targeted by organized crime.

[Dr. Benedet](#) blamed sexism, colonialism and racism, not PCEPA:

102 [Evidence](#) (Allison). Also see [Evidence](#) (Jay).

103 [Brief](#), p.7 (Dr. Ayden Scheim, Dr. Greta Bauer and Trans PULSE Canada).

No one can reasonably claim that Indigenous women and girls, or Asian women, “choose” prostitution more than White women, without acknowledging that so-called choice is the product of sexism intersecting with colonialism and racism.

Indigenous Experiences

The [Iskweu Project](#) brief explains some of the reasons Indigenous women engage in sex work:

The women Iskweu serves through the Project have little opportunity to access income and supports due to a legacy of colonialism, displacement and racism, and this is why they do sex work.

In our experience at Iskweu, women can both choose to participate in sex work and nonetheless be victims of crimes. The women we encounter through the Project report a broad range of experience in sex work, from positive to negative to neutral.

[Ms. Peters](#) told the Committee about complex PTSD, childhood sexual abuse and other challenges in Indigenous communities. Indigenous women and girls are targeted by the sex industry, according to Ms. Peters. [Ms. Big Canoe](#) noted the history of sexual exploitation of the residential schools and stated, “That has been the legacy towards [I]ndigenous people in this country.” Because of these experiences, Indigenous sex workers are “pushed into the singular narrative of human trafficking victims” according to [Ms. Duffy](#), despite the varied reasons they are involved in sex work. Similarly, the [Iskweu Project](#) brief says:

While some suggest that Indigenous women do not freely choose to partake in the sex trade, the Indigenous women that we serve at Iskweu find this infantilizing. Although they have limited options, the women we encounter at the Project are making the best decisions they can make at a given time in their life, and we recognize their agency.

[Ms. Big Canoe](#) argued:

Laws prohibiting the exchange of sex for compensation between consenting adults are not the way to end violence against [I]ndigenous women or to address inequality and systemic poverty.

...

Sexual exploitation of [I]ndigenous women and girls and two-spirited community members occurs well before they decide to engage in sex work. Indigenous children who are apprehended into child protection services at alarming rates in this country often experience sexual exploitation. Addressing issues of poverty and inequity and decolonizing approaches to child welfare institutions is the leading way to reduce sexual exploitation that [I]ndigenous children in this country experience.



Criminalization results in sex workers fearing their children could be taken away, further exacerbating the large percentage of children in care who are Indigenous and raised away from their communities and traditions.¹⁰⁴

Dr. Benoit and Dr. Mellor also note in their brief that many Indigenous sex workers do not have the resources to operate an independent sex worker business and decriminalization would allow them to work in “adequately funded, legal, safe, clean indoor spaces.”

In contrast, Ms. Franklin felt that decriminalization would increase the risk of harm, violence and murder for Indigenous women, without increasing their safety or freedoms. The Aboriginal Women’s Action Network told the Committee that “any meaningful reconciliation between Indigenous peoples and settlers cannot take place as long as Indigenous women are being exploited in prostitution.”

Ms. Big Canoe called for the relevant Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls to be implemented.¹⁰⁵

Migrant and Racialized Experiences

While not all racialized sex workers are migrants, the two groups have some overlapping experiences and were often mentioned together by witnesses. The Committee was told, as noted above, that migrant and racialized sex workers are less likely to report violence to police than average and racialized sex workers appear more likely to be criminally charged if they contact police for assistance.¹⁰⁶ Aggressors take advantage of this reality.¹⁰⁷

Butterfly explained the stereotypes affecting Asian sex workers:

The effects of the criminal provisions also intersect with anti-Asian racism, which often involves two dual stereotypes. On the one hand, there is the assumption that Asian women are naïve, passive, cannot consent to sex work, and are therefore victims of trafficking. ... Another common stereotype that Butterfly has observed is that Asian and migrant sex workers are part of exploitative organized crime rings...

104 Evidence (Sayers); Brief, p. 18 (Egale).

105 Also see Brief, p. 6 (CBA).

106 Evidence (Ka Hon Chu); Evidence (Ciavarella).

107 Brief, p. 3 (Butterfly).

On the other hand, Asian women are fetishized and viewed as sexualized bodies that are sinful, immoral, and illegal. These attitudes, which are bolstered by the criminalization of sex work, fuel anti-Asian hate and violence against Asian sex workers.

Ms. Barile outlined the experiences of transgender migrants to Canada:

Many of the women ASTTeQ work with are newcomers to Canada who have come in search of a life safe from anti-trans hatred, discrimination, and violence, yet PCEPA has denied many of these women the life they were promised by forcing them into unsafe working conditions and by exposing them to the harms of constant police presence.

The *Immigration and Refugee Protection Regulations* bar foreign nationals from working in the sex industry and violators can be deported, including if they report violence they experience and are found to be working in the sex industry.¹⁰⁸ Elene Lam told of a worker who had been assaulted four times but will not scream if assaulted again for fear the police will come, because a friend was arrested and deported. She also mentioned the collaboration of police with the Canadian Border Services Agency, including for anti-trafficking efforts. Even if no trafficking victim is identified, sex workers have been arrested and deported. She said that Asian sex workers are racially profiled by police. In contrast, Superintendent Byrne said that, at least in B.C., guidelines for police are not to seek immigration enforcement. A number of witnesses called for the repeal of the rules preventing migrants from doing sex work.¹⁰⁹

Recommendations

Recommendation 10

That the Government of Canada table legislation to repeal sections 183 (1)(b.1), 196.1(a), 200(3)(g.1) and 203(2)(a) of the *Immigration and Refugee Protection Regulations*, which unfairly put migrant sex workers at elevated risk of violence and danger by making them unable to report these incidents without fear of deportation.

Recommendation 11

That the Government of Canada consider how to best address the exploitation of migrant sex workers and to prevent findings of inadmissibility and deportation when

108 *Evidence* (Wesley); *Evidence* (Elene Lam). For more information about immigration inadmissibility and the intersection with the criminal law, see JUST, *Brief* (Jamie Liew).

109 See, for example, *Evidence* (Wesley); *Evidence* (Porth); *Evidence* (Clamen; Duffy); *Evidence* (Davis); *Brief* (Doltze); JUST, *Brief*, 22 February 2022, p.4 (HIV Legal Network); *Brief* (Vancouver Rape Relief and Women's Shelter); *Correspondence* (Centre for Gender & Sexual Health Equity).



such individuals report being victims of crime. This could involve amending the *Immigration and Refugee Protection Regulations* or other measures.

Recommendation 12

That, prior to any legislative amendments to the *Protection of Communities and Exploited Persons Act*, a gender-based analysis plus be conducted by the Government of Canada to ensure that the most vulnerable sex workers, including Indigenous, migrant, racialized and transgender individuals, will not experience disproportionately negative impacts from any such changes and that their unique needs are addressed. The analysis should be tabled in Parliament and posted publicly.

Recommendation 13

That the Government of Canada fully implement Calls for Justice 4.3, 5.3 and 12.14 of the National Inquiry into Missing and Murdered Indigenous Women and Girls.

CHAPTER 9: EDUCATION AND TRAINING

Witnesses emphasized the importance of education in addressing sexual exploitation, addressing stigma related to sex work and improving safety within the sex industry. This includes educational programs for the police, as well as the public.

Public Education

Public awareness campaigns were widely called for by witnesses, although opinions on the content differed.

Sex work advocates expressed that stigma against sex workers heavily impacts their lives, contributing to their social isolation, dehumanization, and lack of protection.¹¹⁰ Such witnesses believed education should be targeted toward de-stigmatizing sex work.¹¹¹ Ms. Porth shared, “Education is also needed to dismantle negative stereotypes about sex workers.”

Other witnesses wanted education to focus on preventing entry into the sex industry and decreasing demand. Education was seen by these witnesses as a key factor in the effectiveness of PCEPA, with recommendations to focus on the links between the sex

110 [Evidence](#) (Chevrier); [Evidence](#) (Sarah Smith); [Brief](#) (Benoit and Mellor).

111 [Evidence](#) (Gagnon); [Evidence](#) (Porth); [Evidence](#) (Ciavarella).

industry, sexual exploitation, and human trafficking as a preventive approach.¹¹² They called for national campaigns to inform Canadians on laws related to the sale of sex, the objectives of PCEPA, and the consequential harms of purchasing sex.¹¹³ [Defend Dignity](#) shared the following:

There must be intentional public education on the reality of prostitution and the provisions and objectives of PCEPA. This includes warning about the high risk of physical and psychological harms posed by selling sex, available services and supports, why buying sex is so harmful and thus illegal, the criminal immunity and exceptions that are offered to people who sell their own sexual services, how this is a step to advance gender equality, etc.

They recommended standardized training in sectors such as education and tourism and public awareness campaigns via social media and search engine advertising.

Highlighting public education as a key component in the success of the Swedish model, some looked to Sweden’s public awareness efforts against sex purchasing and its social impact in reducing demand and shifting public perception.¹¹⁴ The [Association for Reformed Political Action](#) shared that, “Education is an important part of helping Canadians understand the harms of prostitution and human trafficking.” Citing a Swedish study on men who do and do not purchase sex, they noted:

Evidence from Sweden shows that the younger generation of men properly sees purchasing sex as inappropriate, while fewer in the older generation see it that way. Appropriate legislation combined with education can have a positive impact by reducing demand.

Efforts to educate youth on sexual exploitation and human trafficking were also encouraged.¹¹⁵ [Ms. Gagnon](#) stated that Nova Scotia recently added material on identifying exploitation, grooming, and human trafficking to its curriculum. Witnesses like [Ms. Joy Smith](#) teach students how traffickers work, warning signs and prevention tactics.

112 [Brief](#) (Defend Dignity); [Brief](#) (Resist Exploitation, Embrace Dignity); [Brief](#) (Roman Catholic Archdiocese of Vancouver).

113 [Brief](#) (Asian Women for Equality); [Brief](#) (Canadian Council of Churches); [Brief](#) (Defend Dignity); [Brief](#) (Persons Against Non-State Torture).

114 [Evidence](#) (Kent); [Brief](#) (ARPA); [Brief](#) (EFC); [Brief](#) (VCASE).

115 [Brief](#) (Brown); [Brief](#) (CLES); [Brief](#) (VCASE).



Several witnesses spoke of the importance of educating men and boys about the treatment of women and the purchasing of sex.¹¹⁶ [Ms. Heinz](#) said, “Most men are also victims of the culture that tells them that their masculinity requires them to be sexual consumers.” She stressed the need to provide men with the opportunity for education and alternative programs. [Mr. Brandt](#) added that there should be a cultural shift in society such that young men no longer seek the purchase of sex for gratification, and PCEPA could do this.

Sex Trade Offender Programs and diversion programs were also mentioned as valuable resources in shifting perspectives.¹¹⁷ [Kathy King](#) told the Committee:

Having volunteered with close to one hundred STOPS: Sex Trade Offender Programs, aka “john schools,” in over twenty years, I can attest that many men are grateful for a different perspective and appreciate supportive resources; many spontaneously apologize and pledge to change their behavior.

Police Training

While training for various criminal justice actors was discussed, much of the focus was on police officers. There was significant disagreement on whether the training of police officers would make a difference for individuals in the sex industry while PCEPA is law.

Several witnesses spoke of the importance of consistent training nationwide for police officers and prosecutors.¹¹⁸ [VCASE](#) said, “In meetings with senior officers in the RCMP and police forces, we have found them shockingly unaware of the law and the requirements within it.” They stressed the need to support law enforcement agencies through training and funding of policing. [Ms. Baptie](#) recommended educating police and Crown attorneys on the intention of PCEPA. She said:

We need to educate everyone from beat cops right up to the Crown attorneys. We can do that in a number of ways. We have city cops, we have RCMP. It can be as simple as sending out a directive that those officers can then talk about, or it can be like a travelling panel that goes to all the different districts and does the education.

116 [Evidence](#) (Baptie); [Evidence](#) (Brandt); [Evidence](#) (Stevenson); [Brief](#) (Doltze); [Brief](#) (VCASE).

117 [Evidence](#) (Quinn); [Brief](#) (CEASE); [Brief](#) (Defend Dignity); [Brief](#) (King).

118 [Evidence](#) (Baptie); [Evidence](#) (Joy Smith); [Evidence](#) (Stevenson); [Evidence](#) (Byrne).

Other suggestions included teaching justice system actors to take a trauma-informed¹¹⁹ approach in their work to better support victims of exploitation, reduce stigma, and confront biases.¹²⁰ [Ms. Stevenson](#) said, “I believe that police officers deserve to have a complete understanding of the mental, emotional, psychological and cognitive processes of the people they will be offering aid to.”

[Dr. Chevrier](#) shared suggestions on training provided to her by sex workers interviewed in her research. She told the Committee:

[Interviewees] also had concrete suggestions, such as having sex worker-led training for police officers and different service providers, and programs to help police officers understand the varied realities that are included in the term “sex work.” They would understand the difference between sex work, sexual exploitation and human trafficking, which are not synonyms and should not be used as such. They also asked for compassion training.

At the same time, other witnesses did not think training would improve sex worker relations with police and promote safety because it occurs in the context of the enforcement of PCEPA.¹²¹ [Ms. Clancey](#), who spent a decade conducting police training on sex work and human trafficking, called it “futile in a criminalized legal framework.” She also stated that systemic racism in policing contributes to the ineffectiveness of PCEPA-related training. [SWAN](#)’s brief also stated:

[I]n our experience, police are unwilling to engage when the educational materials do not confirm their existing bias, i.e. that one must be ‘forced’ if they are working in the sex industry.

[Elene Lam](#) added:

The criminal law gives the power to the police and the law is designed to eliminate sex workers, so no matter how you train law enforcement or how good law enforcement is, it is still designed to target sex workers. That's why we say training police is not helpful.

Experiences of discrimination, poverty, and criminalization contribute to increased marginalization, violence, and mistrust of police by racialized and Indigenous sex workers. These can inform how these communities perceive the effectiveness of law enforcement and police training. The [Iskweu project](#) brief says:

119 See the Alberta Human Trafficking Task Force [report](#) referred to by Mr. Brandt for a definition of “trauma-informed” at p. 29.

120 [Evidence](#) (Brandt); [Brief](#) (Brown); [Brief](#) (Defend Dignity); [Brief](#) (Gray-Beerman).

121 [Evidence](#) (Elene Lam); [Evidence](#) (Clancey; Lindstrom).



The Indigenous women we work with do not believe the SPVM (Montreal police) have demonstrated an understanding of the enduring and ongoing harms of colonization or that they have adapted their services to be relevant for Indigenous women and their community.

The [Iskweu project](#) concluded that there was not a need for increased police training but, rather, “we recommend removing the tools of the *Criminal Code* that police use to surveil Indigenous communities.”

The Committee acknowledges that education is an essential component to prevent sexual exploitation and promote the safety of sex workers. We recognize how the stigmatization of sex work affects the lives, health and working conditions of many in the sex industry. Public awareness on these matters is a critical component to protect the vulnerable, ensure that entry into the industry is by choice and guarantee the human rights of sex workers. Equally, we heard extensive testimony about the challenging relationship between sex worker communities and law enforcement. We believe this points to the need for research into what would improve the relationship, including best practices in training and other measures mentioned above, such as considering amending or repealing PCEPA.

CHAPTER 10: SERVICES AND SUPPORTS

Although witnesses had different objectives for the services and supports they recommended putting in place, the Committee heard that three main issues need to be addressed: root causes that push individuals into sex work; stigma and discrimination when sex workers seek out services and supports; and ensuring that supports and resources are in place for those who seek to exit the sex industry. Furthermore, some also called for the improved coordination of social services and collaboration of government at all levels.¹²²

Addressing Root Causes

As noted by several witnesses, addressing socioeconomic factors such as poverty, systemic discrimination, income inequality, housing, food security, health care accessibility, lack of educational opportunities and inadequacies in the child welfare system is necessary. These factors can affect the agency of sex workers, especially those from Indigenous, racialized, 2SLGBTQ+, or low-income backgrounds. Increasing the

122 [Evidence](#) (Joy Smith); [Evidence](#) (Brandt; Franklin); [Brief](#) (ARPA); [Brief](#) (Roman Catholic Archdiocese of Vancouver).

options and supports available can help ensure that those that enter the sex industry do so by choice.¹²³

Advocates of PCEPA highlighted the need for governments to act on poverty as a root cause for entering the sex industry.¹²⁴ [Asian Women for Equality](#) stated:

Addressing women’s poverty will reduce much of the vulnerability that enables pimps, advertisers and sex buyers to recruit women into prostitution. Criminal law alone is not enough to prevent men from growing prostitution or to prevent women from being drawn into the industry.

Sharing the experiences of Indigenous sex workers, the [Iskweu Project](#) told the Committee that these communities need “access to resources, culturally safe spaces, and stable housing.” [Ms. Big Canoe](#), referring to Call for Justice 4.3 of The *National Inquiry into Missing and Murdered Indigenous Women and Girls*, expressed the need for long-term funding for programs for Indigenous women, girls, and 2SLGBTQ+ people. Specifically, Ms. Big Canoe called for “funding to [I]ndigenous communities for self-administered education and vocational training, housing programs, income assistance, and health and addiction services based on [I]ndigenous traditions.”

Likewise, [Ms. Stevenson](#) mentioned the importance of addressing mental health, education, income inequality, gender inequality, and reconciliation, stating, “until these foundational chasms are considered repaired, we simply cannot open the doors to an industry that preys on and exploits these and other vulnerabilities.”

Supporting Individuals in Sex Work

The Committee was also told that stigmatization and discrimination were significant issues facing sex workers. [PACE and Pivot Legal Society](#) wrote, “the greatest commonality between sex workers in Canada is the stigma they face.” Several witnesses spoke about stigma hindering sex workers’ access to health and social services.¹²⁵ [Ms. Lindstrom](#) was among those who spoke of cases where medical staff refused to provide street-based sex workers with adequate medical treatment.¹²⁶ [Student-](#)

123 [Evidence](#) (Abiagom; Gagnon; Suokonautio); [Evidence](#) (Big Canoe); [Evidence](#) (Ciavarella; Clancey; Sarah Smith); [Brief](#) (Centre for Gender Advocacy); JUST, [Brief](#), 18 February 2022 (Dr. Tamara O’Doherty and Dr. Hayli Millar).

124 Also see [Brief](#) (Canadian Council of Churches); [Brief](#) (Gray-Beerman); [Brief](#) (Resist Exploitation, Embrace Dignity); [Brief](#) (Roman Catholic Archdiocese of Vancouver).

125 [Brief](#) (Butterfly); [Correspondence](#) (Centre for Gender & Sexual Health Equity).

126 [Evidence](#) (Kent).



[Volunteers at SafeSpace London](#) shared that many sex workers would rather sleep on the street than in shelters due to factors including stigma.

Additionally, passive barriers such as geography, operational hours, gender specificity, and experience specificity (wherein sex workers are told to refer to their experiences as exploitation or human trafficking to receive care) were said to hinder people from accessing services.¹²⁷

According to [Dr. Chevrier](#), participants in her study asked for service providers “to use appropriate language, to educate themselves on the varied realities that exist in sex work, to hire more sex workers, and above all, to respect their humanity.” In her experience working with individuals in the sex industry, [Ms. Gagnon](#) also shared the solutions they want:

Really, what everyone tells us is that there are two basic things they want. They want non-judgemental services, which means we have to remove some of the values we might have about the buying and selling of sex to reduce the stigmatization of their experiences. They also really need harm reduction services.

Witnesses also recommended that funding and support be provided to organizations that work with sex workers.¹²⁸ [Queer Ontario](#) advised that:

[S]ervices should, ideally, operate under a philosophy of care that places the needs, voices, and experiences of sex workers first and which encourages them to take control of their own lives in a supportive environment.

This means creating services and supports that improve their safety and validate their agency. [Ms. Barile](#) shared a similar view, stating, “I think the real solution to issues of unsafe conditions in sex work is sex worker community supports.”

Supporting Individuals Exiting Sex Work

Several submissions emphasized the need to support survivors and those leaving sex work through trauma-informed counselling and mental health services, addictions and social supports, educational opportunities, vocational training and exit-strategy supports.¹²⁹ Additionally, the [Evangelical Fellowship of Canada](#) recommended that

127 [Evidence](#) (Chevrier); [Evidence](#) (Lindstrom); [Brief](#) (Roots et. al).

128 [Evidence](#) (Duffy). Also see [Evidence](#) (Gagnon); [Brief](#) (PACE and Pivot Legal Society).

129 [Evidence](#) (Botting); [Evidence](#) (Baptie; Dunn); [Evidence](#) (Joy Smith); [Evidence](#) (Brandt); [Evidence](#) (Stevenson); [Brief](#) (Brown); [Brief](#) (Persons Against Non-State Torture); [Brief](#) (Roman Catholic Archdiocese of Vancouver); [Brief](#) (VCASE).

“funds paid for fines under s. 286.1(1) should be directed toward exit programs and services for individuals who are prostituted.”

According to some witnesses, stigmatization and discrimination also deeply affected individuals wanting to exit sex work and survivors of sexual exploitation. [Ms. Franklin](#) shared the experience of a young woman facing out-of-sex-trade trauma who sought support from shelters and was told “that she's not ‘woke’ and is being gaslit by posters that her body is her choice and sex work is real work.” Ms. Franklin added that the woman was told to do stripping or “rub and tugs” as a means of harm reduction to pay for her child’s needs.

[Mikhaela Gray-Beerman](#) shared examples of people who experienced shame, social isolation, and limited access to resources due to their involvement in sex work. To address the impacts of stigma for individuals exiting sex work and offer support, she recommended that the government provide financial support. This could include investing in “anti-poverty programming, post-secondary scholarships and bursaries; trauma-informed services; debt reduction and financial management programs.”

According to the [Roman Catholic Archdiocese of Vancouver](#), various types of support are needed:

Ancillary programs supporting PCEPA require a continuum of care for those exiting, as there are many stages in the exiting process and it can take years and numerous attempts to fully leave. Some of those involved require emergency care and a safe place to rest while they consider their options. Others require a longer-term or permanent solution so that healing and recovery can proceed. Support services are needed to accompany survivors for many years, as they build a new life and discover a path of re-integration into society.

Speaking on the vulnerability of some individuals in the sex industry and her own experience as a victim of human trafficking and the child of teen parents who divorced, [Kelsey Smith](#), Neuroscience and Mental Health Student at Carleton University, said “I wonder whose job it is to protect the girls like me who were lost without anyone to advocate for them.” Child welfare and other services need to improve the provision of supports for families and protect children and youth from sexual exploitation.

The Committee recognizes that many factors inform one’s participation in sex work. Issues such as poverty, housing insecurity, addiction, and discrimination can have compounding effects on the choices available to individuals. We see how, for many who enter the sex industry, and particularly for Indigenous and racialized communities, this may increase harm and marginalization that must be addressed. We also see value in increased funding and support for health and social services for current sex workers and



those exiting the industry. Given the testimonies on the effect of stigmatization, the Committee recognizes the importance of non-judgemental services. All persons should be shown respect and provided care when seeking services, regardless of whether they choose to leave or remain in sex work.

Recommendations

Recommendation 14

That any legislative changes to the existing provisions on the sale of sexual services be imperatively preceded by agreements between the federal government, Quebec and the provinces and territories to agree on the funding needed for social programs related to sex workers' health and safety.

Recommendation 15

That the Government of Canada invest in and support programs, in collaboration with affected stakeholders including provinces and territories and individuals with lived experience, to address the root causes for entering sex work to make entry into the industry a real choice and to protect the vulnerable.

Recommendation 16

That the Government of Canada provide additional financial support to organizations that provide non-judgmental and trauma-informed services to sex workers, and particularly those operated by sex workers themselves.

Recommendation 17

That the Government of Canada invest in and support the provision of additional social and legal supports for vulnerable youth at risk of sexual exploitation and individuals who wish to leave the sex industry, including non-judgmental and trauma-informed mental health and addiction services, vocational and education programs and income supports.

NOTE: Some testimonies and briefs included statistics which have been mentioned in this report. Some of the statistics came from peer-reviewed studies and official sources and, in other cases, the source of the statistics was less clear. The Committee has attributed all statements to the individuals and organizations that shared the information, but has not verified the accuracy of the information provided.

APPENDIX A LIST OF WITNESSES

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

Organizations and Individuals	Date	Meeting
As an individual	2022/02/08	2
Carolyn Botting, Sergeant Ottawa Police Service		
Department of Justice	2022/02/08	2
Nathalie Levman, Senior Counsel Criminal Law Policy Section		
Carole Morency, Director General and Senior General Counsel Criminal Law Policy Section, Policy Sector		
Stella, l'amie de Maimie	2022/02/08	2
Sandra Wesley, Executive Director		
As an individual	2022/02/11	3
Dr. Claudyne Chevrier, Ph.D. Community Health Sciences		
Cathy Peters, Educator		
EVE	2022/02/11	3
Trisha Baptie, Founding Member and Community Engagement Coordinator		
HIV Legal Network	2022/02/11	3
Sandra Ka Hon Chu, Co-Executive Director		
London Abused Women's Centre	2022/02/11	3
Jennifer Dunn, Executive Director		
Québec Trans Health Action	2022/02/11	3
Daphne Barile, Coordinator		

Organizations and Individuals	Date	Meeting
Butterfly (Asian and Migrant Sex Workers Support Network) Elene Lam, Executive Director	2022/02/15	4
Joy Smith Foundation Inc. Joy Smith, Founder and President	2022/02/15	4
Vancouver Collective Against Sexual Exploitation Lynne Kent, Chair	2022/02/15	4
YWCA Halifax Temitope Abiagom, Manager Nova Scotia Transition and Advocacy for Youth (NSTAY) Charlene Gagnon, Manager Advocacy, Research and New Initiatives Miiia Suokonautio, Executive Director	2022/02/15	4
As an individual Gwendoline Allison, Barton Thaney Law Paul Brandt	2022/03/01	5
Aboriginal Legal Services Christa Big Canoe, Legal Advocacy Director	2022/03/01	5
Courage for Freedom Kelly Tallon Franklin, Chief Executive Director	2022/03/01	5
Pivot Legal Society Kerry Porth, Sex Work Policy Consultant Lyndsay Watson, Legal Director	2022/03/01	5
As an individual Alexandra Stevenson (Ford), Speaker, Survivor and Prevention Specialist	2022/03/04	6
Asian Women for Equality Suzanne Jay, Collective Member	2022/03/04	6
Canadian Alliance for Sex Work Law Reform Jenn Clamen, National Coordinator	2022/03/04	6
Maggie's: Toronto Sex Workers Action Project Jenny Duffy, Board Chair	2022/03/04	6

Organizations and Individuals	Date	Meeting
Peers Victoria Resources Society Sophia Ciavarella, Operations Manager Sarah Smith, Small Business and Indoor Workers Group Coordinator	2022/03/04	6
SafeSpace London Amber Lindstrom, Program Coordinator	2022/03/04	6
SWAN Vancouver Society Alison Clancey, Executive Director	2022/03/04	6
As an individual Andrea Heinz	2022/03/22	7
Canadian Association of Chiefs of Police Supt Lisa Byrne, Member Law Amendments Committee	2022/03/22	7
Concertation des luttes contre l'exploitation sexuelle Diane Matte, Co-coordinator	2022/03/22	7
Defend Dignity Glendyne Gerrard, Director	2022/03/22	7
The Canadian Bar Association Jeneane S. Grundberg, Chair Municipal Law Section Kevin B. Westell, Secretary Criminal Justice Section	2022/03/22	7
As an individual Melissa Lukings, Juris Doctor, Author and Researcher Naomi Sayers, Lawyer Kelsey Smith, Neuroscience and Mental Health Student Carleton University	2022/04/01	9
BC Coalition of Experiential Communities Susan Davis, Director	2022/04/01	9

Organizations and Individuals	Date	Meeting
<p>Centre for Gender and Sexual Health Equity</p> <p>Dr. Shira Goldenberg, Director of Research Education and Assistant Professor Division of Epidemiology and Biostatistics, Simon Fraser University</p> <p>Dr. Andrea Krüsi, Faculty Member and Assistant Professor Department of Medicine, University of British Columbia</p>	2022/04/01	9
<p>Women's Studies Online</p> <p>Cherry Smiley, Founder</p>	2022/04/01	9
<p>As an individual</p> <p>Dr. Gillian Abel, Professor Department of Population Health, University of Otago</p> <p>Dr. Lynzi Armstrong, Senior Lecturer Institute of Criminology, Victoria University of Wellington</p> <p>Prof. Janine Benedet, Professor of Law Peter A. Allard School of Law, University of British Columbia</p> <p>Nadia Guo, Criminal Defence Lawyer</p>	2022/04/05	10
<p>Centre to End All Sexual Exploitation</p> <p>Kathleen Quinn, Executive Director</p>	2022/04/05	10

APPENDIX B LIST OF BRIEFS

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

Abel, Michelle

Aboriginal Legal Services

Aboriginal Women's Action Network

Action Canada for Sexual Health and Rights

Advocacy Normalizing Sex Work through Education and Resources Society

Amnesty International

Asian Women for Equality

Association for Reformed Political Action Canada

Bauer, Greta

BC Coalition of Experiential Communities

Benedet, Janine

Benoit, Cecilia

Brandt, Paul

Brown, Nancy

Bruckert, Christine

Butterfly (Asian and Migrant Sex Workers Support Network)

Canadian Alliance for Sex Work Law Reform

Canadian Centre for Child Protection Inc.

Canadian Council of Churches

Centre for Gender Advocacy

Centre to End All Sexual Exploitation

Christian Legal Fellowship

City of Vancouver

Concertation des luttes contre l'exploitation sexuelle

De Shalit, Ann

Defend Dignity

Direction régionale de santé publique de Montréal

Doltze, Hennes

Donaldson, Morgan

Dufour, Rose

Durocher, Maxime

Egale Canada

Evangelical Fellowship of Canada

Fédération des femmes du Québec

Freedom United

Freeland, Gretta

Goldenberg, Shira

Gray-Beerman, Mikhaela

Health Initiative for Men

HIV Legal Network

HOPE Outreach of Canada

International Center on Sexual Exploitation

Johnson, Genevieve Fuji

King, Kathy

Kraus, Ingeborg

Krüsi, Andrea

Lam, Laura

Lazarus, Lisa

Liew, Jamie

Lifeworthy, SIM Canada

Living in Community

London Abused Women's Centre

Maggie's: Toronto Sex Workers Action Project

Maldonado, Veronica
Mellor, Andrea
Millar, Hayli
Native Women's Shelter of Montreal
Nixon, Kylee
No Pride in Policing Coalition
O'Doherty, Tamara
PACE Society
Peers Victoria Resources Society
Persons Against Non-State Torture
Peters, Cathy
Pivot Legal Society
Pour les droits des femmes du Québec
Prince George New Hope Society
Queer Ontario
Reiz, Nyema
Resist Exploitation, Embrace Dignity
Roman Catholic Archdiocese of Vancouver
Roots, Katrin
Sayers, Naomi
Scheim, Ayden
Sex Workers of Winnipeg Action Coalition
Shannon, Kate
Shift Calgary, HIV Community Link
Showing Up for Racial Justice
St. John's Status of Women Council
Stevenson (Ford), Alexandra
SWAN Vancouver Society
The Canadian Bar Association
Trans PULSE Canada

Triple-X Workers' Solidarity Association of B.C.

van der Meulen, Emily

Van Ee, Elizabeth

Vancouver Collective Against Sexual Exploitation

Vancouver Rape Relief and Women's Shelter

WAVAW Rape Crisis Centre

Yukon Status of Women Council

Zapata, Toni

REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 2 to 7, 9, 10, and 21 to 24](#)) is tabled.

Respectfully submitted,

Randeep Sarai
Chair

Review of the Protection of Communities and Exploited Persons Act: Conservatives' Dissenting Report

Introduction

Since 2014 the *Protection of Communities and Exploited Persons Act* has been a crucial tool to protect Canadians from sexual exploitation and intervene in the buying and selling of human beings. This law protects those who receive money from the sale of their own sexual services from criminal liability while targeting the pimps and johns, the majority of which are men, who exploit and traffic humans, the majority of which are women and girls.

In the committee's study of the Protection of Communities and Exploited Persons Act, committee members did not hear from many victims and survivors of the sex trade in Canada due to the very nature of the illicit industry. Alexandra Stevenson (Ford), a public speaker, survivor and prevention specialist told this committee that there would not be many voices like hers "not because there are fewer of us, but because we are less likely to have freedom to speak out, for reasons ranging from shame to fear to death."

Conservatives' Recommendations

Recommendation 1:

That the Government of Canada keep the Protection of Communities and Exploited Persons Act enshrined in law. The Protection of Communities and Exploited Persons Act confirms to Canadians, and particularly women and girls, that they are valuable and worthy of protection.

Andrea Heinz, a published scholar and former sex worker, stated that "repealing the Protection of Communities and Exploited Persons Act means that Canada has no tools for the coercion that is happening, the pimping and the profiteering. These are addressed through the advertising, procuring and material benefit offenses, sections 286.4, 286.3 and 286.2 respectively. Full decriminalization is what exploiters and profiteers pray for."

Recommendation 2:

That the Government of Canada acknowledge that the Protection of Communities and Exploited Persons Act is a crucial tool that protects women and girls and criminalizes exploiters and traffickers.

Ms. Heinz described the Protection of Communities and Exploited Persons Act as a well-written and balanced law. She also emphasized the importance of deterrence, stating that "with no social deterrent, sex buying is given the green light. This money incentivizes exploiters to cash in and more agencies and brothels to open, and pimping and trafficking increase as a result to meet an unfettered demand for women's bodies."

Suzanne Jay, collective member of Asian Women for Equality, told the committee that "The act is the only law that targets the sex buyer. You might hear opinions that a human trafficking law

is enough, but that law focuses on only the traffickers. A human trafficking law gives a free pass to the man who buys sex from a trafficked woman.”

Recommendation 3:

That the Government of Canada refrain from decriminalizing or legalizing the buying and selling of mostly women and girls in Canada.

Referring to the passing of the Protection of Communities and Exploited Persons Act in 2014, educator Cathy Peters stated that “The clear statement from Parliament was that girls and women in Canada are not for sale: They are full human beings with dignity and human rights.” Decriminalization would communicate that the opposite is true.

Recommendation 4:

That the Government of Canada acknowledge the inherent involvement of human trafficking within the sex work industry and consider the varying degrees of coercion that individuals who have entered into the sex industry have faced, nullifying the myth that sex work is consensual and could possibly be made to be a safe working environment.

Ms. Stevenson stated that “Some workers may have chosen their work, but they chose it because they were desperate or in survival mode, and a choice made in desperation is no choice at all.”

Recommendation 5:

That the Government of Canada should promote the consistent application of the Protection of Communities and Exploited Persons Act across the country, including by providing training for the various points of contact that victims and survivors may experience including law enforcement agencies, councillors, social workers and individuals within the justice system.

Trisha Baptie is a survivor and founding member of Formerly Exploited Voices Now Educating. She testified to the committee that “..this law has not been applied across the country in any uniform way. It has not been given an opportunity to create real change or benefit those who need it. There is no way we can have reliable statistics on the effect of this law when there are some parts of the country that still haven't even heard of it. We need more time with this law to watch it grow, to have it fully take hold and to help change society.”

Recommendation 6:

That the Government of Canada not decriminalize sex work for migrant workers. Decriminalizing the sex trade of migrants in Canada would put these vulnerable individuals even further at risk but on a global scale. Lynne Kent, Chair of the Vancouver Collective Against Sexual Exploitation described the consequences of decriminalization, stating that “Canada would become the brothel of North America—there is no question about that—and we would be the best sex tourism destination for the world.”

Ms. Stevenson also raised the concern of the dangerous position that Canadian communities would be in if the Protection of Communities and Exploited Persons Act were to be repealed, stating, “I think it's fair to say that if there are barriers to access in one area, say the U.S., and you don't have barriers in Canada, people are going to go where there are fewer barriers to access what they're looking for, which is the purchase of sex.”

Recommendation 7:

That the Government of Canada develop ongoing national public awareness campaigns to inform Canadians, and particularly vulnerable youth, of the red flags and risks of sexual exploitation and trafficking. Content should be developed for both adults and youth in collaboration with affected stakeholders including provinces and territories and individuals with lived experience.

Paul Brandt is a Canadian Musician and founder of the organization #NotInMyCity that works to end sexual exploitation and sex trafficking. He shared with this committee how the Province of Alberta is using this Act to make their communities safer, stating, “I would say my home province of Alberta has made great strides in the last five years by uniformly and consistently applying the tenets of the PCEPA, and the momentum is changing communities for the better. We're seeing a lot of co-operation. Recently, #NotInMyCity introduced the position “safety network coordinator” through the Alberta law enforcement response team, ALERT, which handles crimes of this nature and organized crime. The safety network coordinator assists those wanting to exit the sex industry and was introduced by the Alberta law enforcement response team to be there to effectively and efficiently intervene.”

Recommendation 8:

That the Government of Canada study and adapt the successful strategies and programs implemented in the province of Alberta that assist victims and survivors in exiting the sex trade, as well as the education programs developed and implemented by the Joy Smith Foundation.

Former Member of Parliament Joy Smith is the Founder and President of the Joy Smith Foundation, which was founded in 2011 to combat human trafficking. Referring to the implementation of the Protection of Communities and Exploited Persons Act, she told this committee that “It was the catalyst that set the groundwork for so many victims of human trafficking to be able to speak out and bring their perpetrators to justice. It helped me, when I was a member of Parliament, to bring the survivors' voice to the public radar screen.”

Supplementary Report New Democratic Party of Canada

New Democrats voted in favour of the Justice Committee Report “Preventing Harm in the Canadian Sex Industry: A Review of the *Protection of Communities and Exploited Persons Act*” as the report acknowledges that the existing *Protection of Communities and Exploited Persons Act* is harmful to sex workers in that it makes their work more dangerous. The Report goes on to recommend repeal of the most harmful sections of the Criminal Code and the *Immigration and Refugee Protection Regulations*. We are attaching this supplemental report as we continue to support full decriminalization of sex work in Canada and repeal of PECEPA as the best way to ensure safety and dignity of sex workers.

New Democrats wish to thank all those who participated in the review the *Protection of Communities and Exploited Persons Act*. We are pleased to see that this review of PECEPA though much delayed has finally been completed as required by the Act itself. We would like to extend a special thank you to the witness who appeared and shared their personal lived experiences of the impacts that this legislation has had on their lives.

The aim of this review was to look at the impacts that the *Protection of Communities and Exploited Persons Act* has had since its implementation in 2015. Regrettably testimony before the committee often veered off into discussions of the issues of trafficking and exploitation which were not the subject of this review. Clearly we must all remain concerned about instances of trafficking and exploitation but New Democrats reject the idea that all sex work is exploitative and a form of trafficking.

As many witnesses pointed out, conflating sex work with violence, exploitation and trafficking risks missing the real instances of violence, exploitation, and trafficking which can and should be addressed through other existing laws. The Committee heard from many witnesses that attempting to address exploitation and trafficking by targeting those involved in consensual sex work not only fails to stop exploitation and human trafficking from happening, it causes harm by making sex work more dangerous. On too many occasions testimony before the committee became rooted in people’s own moral judgements or personal opinions about sex work rather than the impacts that this legislation has on the lives of people involved in sex work.

From the start New Democrats opposed the adoption the *Protection of Communities and Exploited Persons Act* due to concerns about its potential for harm to sex workers and because of its contradictory goals. PECEPA is based on the premise that all sex work is exploitation and aimed to eliminate all sex work while at the same time promising to protect sex workers. It is clear that no legislation can successfully protect sex workers while at the same time also attempting to eliminate sex work.

From the testimony we have heard it is clear that the effect of PECEPA’s criminalizing those who purchase sexual services, inherently makes sex work more dangerous by pushing clients to hide their identities. When clients hide their identity this inevitably puts the provider of the services at an elevated risk of harm. As well, and in contrast to the so-called Nordic model, PECEPA retains criminal sanctions against sex workers themselves and not just their clients. This point is recognized by both the Canadian Alliance of Sex Work Reform and The Centre for Gender Advocacy in the written briefs provided to the committee.

Witnesses with firsthand experience in the sex trade testified to the many ways PECEPA makes sex work more dangerous. In addition to encouraging clients to hide their identities, PECEPA's prohibition of communicating about sex work in a public place drives sex workers at the street level into hurried conversations with clients that make setting of boundaries and conditions difficult and drive sex workers into increasingly isolated locations in the community. Prohibitions on advertising in effect prevent using online based ways of contacting clients where setting of boundaries and conditions can be established. PECEP also explicitly prohibits sex workers paying for services such as drivers, bodyguards, or safe spaces for conducting their work by criminalizing those third parties.

New Democrats are pleased that the Justice Committee recognize that the *Protection of Communities and Exploited Persons Act* is in fact harmful to those involved in sex work. We support the Committee's recommendations that sections 213 (communicating in a public place), and 286.4 (prohibiting advertising) as these provisions are the most detrimental to the safety of sex workers. We also support repeal of the provisions of the Immigration Act Regulations act which provide for deportation for those without permanent status in Canada who engage in sex work. This section effectively denies police protection against violence and exploitation for those without status as reporting incidents to the police risks being penalized themselves with deportation

However, testimony from those with firsthand experience in sex work most often called for the complete repeal of PECEPA and a change of direction that would ensure the protection of people who are exploited or experience violence by using already existing sections of the Criminal Code of Canada. Most argued that there is no part of the *Protection of Communities and Exploited Persons Act* that is worth keeping. It is clear that the *Protection of Communities and Exploited Persons Act* also contributes to stigma faced by sex workers. We have heard that this can impact all aspects of a sex worker's life, particularly in terms of access to housing, employment, health services, social assistance programs and justice.

Ultimately New Democrats want to ensure that the voices of those most impacted by the *Protection of Communities and Exploited Persons Act* are at the forefront of this discussion. We heard that this Act is harmful to sex workers, without doing anything to prevent exploitation, trafficking, or violence. We hope that the Liberal government will proceed with the recommendations contained in the report as the findings of the review are clearly that PECEPA as it exists is harmful. New Democrats hope that we will make further progress toward recognizing sex work as work and taking the necessary actions to make it safer and to remove stigma.

The recommendation of the New Democratic Party are:

1. That the Government of Canada fully decriminalize sex work and repeal *Protection of Communities and Exploited Persons Act* and the provisions of the Immigration regulations that prohibit sex work.
2. That in the absence of full decriminalization, the Government of Canada at minimum take steps to reduce the harm caused by the *Protection of Communities and Exploited Persons Act*, by repealing sections 213, 286.1, 286.2, 286.3, 286.4 and 286.5 of the Criminal Code, as well as legislation to repeal sections 183 (1)(b.1), 196.1(a), 200(3)(g.1) and 203(2)(a) of the Immigration and Refugee Protection Act Regulations.

3. That the Government of Canada take action to address issues of violence, exploitation, and trafficking experienced by sex workers and those who sell or trade sex by using provisions already existing in the Canadian Criminal Code.

