

Brief to the House of Commons Committee on Justice and Human Rights
National Consultation
on the Protection of Communities and Exploited Persons Act (PCEPA)
Submitted by the Vancouver Collective Against Sexual Exploitation (VCASE)
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PCEPA A Globally Renowned Legal Instrument for the Prevention of Violence against Women

In 2014 Parliament passed **PCEPA** and immunized sex workers against prosecution, while holding the exploiters, pimps and johns accountable for the harm they cause. **PCEPA** is focused on protecting the right to life, liberty and security of persons, which the sex trade violates. In Bedford, the Supreme Court of Canada recognized that “how prostitution is regulated is a matter of great public concern, and few countries leave it entirely unregulated.”

1. Why PCEPA is the Gold Standard

“**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.”¹

PCEPA protects the agency and rights of Canada’s most vulnerable women and children, especially those in Indigenous and immigrant communities.

Canada is lauded around the world for bringing **PCEPA** into law and many countries continue to look to Canada as they amend their own criminal codes.

2. PCEPA supports safety for women and children

PCEPA seeks real safety for women and children, not band-aids, condoms, and a pretense of harm reduction as the solution.

PCEPA recognizes that exploitation is inherent in prostitution and the risks of violence posed to those who engage in it.²

PCEPA recognizes the psychological harm and extreme trauma that victims suffer.³

PCEPA seeks to protect vulnerable communities and all women and children against luring, grooming and entrapment into prostitution.

3. PCEPA addresses Canada’s Obligations under the Canadian Criminal code

¹ <https://nonstatetorture.org/activism/our-work>

² The WHO, [Addressing Violence Against Sex Workers](#) (2012) Section 2.1

³ https://www.who.int/hiv/pub/sti/sex_worker_implementation/swit_chpt2.pdf

It recognizes the link between prostitution and trafficking in “(f) ensure consistency between prostitution offences and the existing human trafficking offences.”⁴

Exploitation is defined in s. 279.04 of Canada’s Criminal Code as causing someone to provide a service “by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service.”⁵

The law must go deeper and recognize that exploitation includes the abuse of a position of vulnerability as identified in the Palermo Protocol. This vulnerability can stem from economic, emotional, social, and legal inequality. The Canadian Criminal Code must be aligned with our international obligations to address the role of women’s inequality in sexual exploitation wherever it occurs.

4. PCEPA recognizes that the Sex Trade is Rooted in Socio-Economic Inequalities and Violence against Women and Girls

Vulnerability to recruitment into the sex trade is deeply rooted in socio-economic inequalities, including poverty and economic insecurity, gender inequality, and the impacts of colonialism. The sex trade is part of the continuum of gender-based violence affecting women and girls, including LGBTQ2S+ people. Despite this government’s ‘Strategy to Prevent and Address Gender Based Violence’, violence against women, including sexual violence, is commonplace within the sex trade. It is considered by all to be inherent and has nothing to do with the law.

PCEPA acknowledges the victimization that occurs within the sex trade.⁶ The fact that the poorest and most vulnerable women enter prostitution makes it clear that this decision is not made from a position of equal opportunity and freedom of choice. PCEPA also acknowledges that prostitution has a disproportionate impact on women and children.

We must recognize that the idea of ‘harm reduction’ cannot be realized by decriminalizing those who exploit vulnerable populations. Harm elimination should be the ultimate objective. Any move to decriminalize the purchase of sexual services supports a culture of violence and the reality that violence against exploited women is tolerated.

5. It addresses Canada’s obligations to the Palermo Protocol⁷

The violence and aggression in prostitution is inherent and embedded. The Palermo Protocol, to which Canada is a signatory, calls upon all nations to “... adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, **to discourage the demand** that fosters all forms of exploitation of persons, especially women and children...” Clearly, UN member states around the world recognize that buyers foster the business of selling women & children for sexual exploitation.⁸ Canada has stepped up to meet this

⁴ https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html#docCont

⁵ [https://laws-lois.justice.gc.ca/eng/annualstatutes/2012_15/page-](https://laws-lois.justice.gc.ca/eng/annualstatutes/2012_15/page-1.html#:~:text=279.04%20(1)%20For%20the%20purposes,or%20the%20safety%20of%20a)

[1.html#:~:text=279.04%20\(1\)%20For%20the%20purposes,or%20the%20safety%20of%20a](https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html#docCont)

⁶ https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html#docCont

⁷ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12&chapter=18&clang=en

⁸ <https://www.scottishlegal.com/article/expert-group-on-challenging-demand-for-prostitution-meets>

international obligation and must not do anything that makes it easier to buy and sell human beings for the sexual gratification of others.

PCEPA recognizes that it is important to continue to denounce and prohibit the procurement of persons for the purpose of prostitution and to denounce the development of economic interests in the exploitation of the prostitution of others as well as the commercialization and institutionalization of prostitution.

PCEPA reaffirms that it is important to denounce and prohibit the purchase of sexual services because **it creates a demand** for prostitution.⁹ Consent is deemed to be irrelevant if it has been obtained by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others.¹⁰

6. PCEPA addresses the need for resources and support

PCEPA acknowledges that provisions need to be made for resources and support for those in prostitution and those leaving prostitution. 89% of women would like to exit but the resources are not available. Should the sex trade be fully decriminalized there would no reason to provide resources for exiting. Many have been recruited as children, resulting in the loss of their education. They have had no opportunity to develop necessary job skills to exit the sex trade. They do not remain by choice but due to lack of choice.

7. Opportunities for Improvement of PCEPA

PCEPA has not been implemented consistently across Canada, if at all. Even the RCMP have remained largely uninformed of the law. 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. Support for law enforcement agencies is critical. There is need for training and funding for resources for police agencies. There is also need for additional resources for crown counsel to follow through on prosecution.

Sweden did an excellent job at educating the public on the harms of buying sex. Canada needs to have a similar education campaign to help heal our culture that turns a blind eye to the violence against women. Education for young boys and awareness for men in how to protect themselves from the harms of pornography/prostitution is needed along with understanding the damage it causes to their relationships.

Law enforcement partnerships with community has been an enormous success for King County, Washington in combating the demand which fuels sexual exploitation. By engaging the community, they created a network of assistance from NGOs for both exit strategies and public education. Tracia's Trust: Manitoba's Strategy to Prevent Sexual Exploitation and Sex Trafficking. Manitoba Government is an

⁹ <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

¹⁰ https://www.osce.org/files/f/documents/7/f/489388_1.pdf

example of strong community collaboration with government and enforcement agencies working with 54 organization to prevent sexual exploitation.¹¹

Support to sex workers exiting must include trauma counselling, job training, food & shelter, education, and mental health. Law enforcement and prosecutors must also acknowledge the inclusion of psychological harm within the concept of “safety” in section 279.04 (1) of the Criminal Code.¹²

A review is a study to consider how something is working.¹³ Before the law can be reviewed it actually needs to be activated to discover what works and what is needed to make implementation effective. It would be inappropriate to change it, throw it out or bring in a new law without consistently implementing this one to understand what is missing for this relatively new law to fulfill the expectations of its worthy intent. We need to provide the resources and training necessary to have the optimal effect and impact on violence and criminal activity.

In countries where a Nordic, PCEPA, or Equality-type model has been implemented,¹⁴ it has been a resounding success:

- Recruitment into the sex trade has decreased
- Trafficking for sexual exploitation has decreased
- There has been a culture shift in respect for women, their rights and empowerment (Is Canada serious about women’s equality?)
- Public support for women’s equality has increased
- A healthier social environment for all

On the other hand, in countries that have decriminalized the sex trade, there has been an increase in those prostituted, an increase in trafficking and child prostitution, an increase in violence and extreme harm to sex workers.¹⁵ It has not advanced women’s empowerment or agency as explained by a New Zealand sex worker.¹⁶ Instead, control and psychological power over has been handed to brothel owners, traffickers and pimps and New Zealand has fallen to Tier 2 in the latest TIP report.¹⁷

In Canada, the political will to prosecute is weak. This is where Sweden set up their law for success by combining training and enforcement with education and support for exit strategies. along with the law. Supporting enforcement, training law enforcement officers, rolling out a public education campaign and creating exit strategies that provide options for sex workers will enable success.¹⁸

Violence against women and sexual exploitation of women and girls is a worldwide pandemic. Canada needs to combat, not create legal frameworks that facilitate it.

¹¹ https://www.gov.mb.ca/fs/traciastrust/pubs/tracias_trust_report_2019.pdf

¹² “Prostitution causes complex PTSD worse than soldiers returning from war,”

¹³ <https://www150.statcan.gc.ca/n1/pub/85-002-x/2021001/article/00010-eng.htm>

¹⁴ <https://www.government.se/articles/2011/03/evaluation-of-the-prohibition-of-the-purchase-of-sexual-services/>

¹⁵ <https://s.telegraph.co.uk/graphics/projects/welcome-to-paradise/>

¹⁶ <https://www.spaceintl.org/media/full-decriminalization-in-new-zealand/>

¹⁷ [New Zealand not doing enough to Stop Trafficking US report states](https://www.spaceintl.org/media/full-decriminalization-in-new-zealand/)

[UN expert warns NZ over human Trafficking](https://www.spaceintl.org/media/full-decriminalization-in-new-zealand/)

¹⁸ https://www.osce.org/files/f/documents/7/f/489388_2.pdf

8. Final Considerations:

It is not the law that has caused harm or failing women. However, other social systems of government have and continue to do so. The child welfare system has taken responsibility for the care and protection of foster children and then thrown them out on the street with no skills to support themselves or resources to attain skills. It becomes therefore responsible for their vulnerability to recruitment into prostitution just to survive. Poor education and job opportunities for Indigenous students leaves them similarly vulnerable.

To repeal or weaken PCEPA in any way, would turn Canada overnight into the brothel of North America¹⁹ and the best sex tourism destination in the world. It would result in increased demand and harm to sex workers, all women and girls (particularly Indigenous and marginalized) and Canadian communities). Once you take that step, there's no going back.

Is this what Canadians want to be known for? The NY Times article on Mind Geek did much damage to our reputation in the world.²⁰ Be very careful. In fact, five times as many Canadians support PCEPA as not.²¹

Should the law be repealed, who are we decriminalizing, since the sex worker is immune from prosecution under PCEPA? The answer is the exploiters – the pimps and johns who are the perpetrators of the violent harms.

You must never separate prostitution and trafficking. The two are inextricably linked. Trafficking for sexual exploitation is prostitution. And 94% of those who are prostituted are Canadian. In fact, we are talking about legitimizing/decriminalizing the most lucrative business of organized crime. The selling of women and girls is better than drugs or guns as you can sell the same 'product' over and over again. Follow the money. One girl can be sold 10x or more/day for 365 days for 10 years and make the pimp over \$300,000 per year. Recruit a stable of 10 girls? You do the math.

9. Recommendation:

It's time for all levels of governments to support, strengthen and enforce PCEPA to lead the world in prevention of violence against women, the sexual exploitation of our most vulnerable and truly live our message of women's equality and empowerment.

¹⁹ <https://theculturetrip.com/europe/germany/articles/heres-why-this-country-is-europes-biggest-brothel/>
<https://www.feministcurrent.com/2016/05/09/legalization-has-turned-germany-into-the-bordello-of-europe-we-should-be-ashamed/>
<https://www.bbc.com/news/world-europe-26261221>
<https://www.nationthailand.com/perspective/30224262>

<https://www.theguardian.com/world/shortcuts/2013/jun/12/germany-now-europes-biggest-brothel>
<https://www.smh.com.au/world/germany-is-now-the-bordello-of-europe-20140114-hv8by.html>

²⁰ <https://www.nytimes.com/2020/12/04/opinion/sunday/pornhub-rape-trafficking.html>

²¹ <https://www.nanos.co/wp-content/uploads/2020/08/2020-1689-LAWC-July-Populated-Report-FINAL-Updated-with-Tabs.pdf>

The Vancouver Collective Against Sexual Exploitation (VCASE) is a non-partisan group of diverse individuals and organizations who have come together as a single voice to end all forms of sexual exploitation.

VCASE advocates with the survivors of sexual exploitation in prostitution, pornography, and human trafficking. VCASE hears and amplifies the voices of those who have been silenced by the exploiters.