

Jean-François Pagé

Clerk of the Committee

Standing Senate Committee on Legal and Constitutional Affairs

Senate of Canada

RE: REVIEW OF THE *PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT*

Dear M. Pagé and distinguished members of the Committee,

This brief is written to you by the team at the International Center on Sexual Exploitation (ICOSE), a division of the National Center on Sexual Exploitation (NCOSE)—a global non-profit organization dedicated to addressing the interconnected web of sexual abuse and exploitation. We work to expose the links between issues such as prostitution, sex trafficking, child sexual abuse, pornography, sexual violence, and more.

ICOSE advocates for the full implementation of laws and interventions that target the consumer-level demand for paid sex in order to shrink the global commercial sex trade and protect the most vulnerable people within our societies. ICOSE therefore fully supports the *Protection of Communities and Exploited Persons Act*.

This brief argues that:

1. Public opinion surveys show that Canadians are much more likely to support rather than oppose upholding PCEPA, and to oppose rather than support fully legalizing the prostitution industry.¹
2. Systems of prostitution exploit people's vulnerabilities and marginalization.
3. Prostitution is inherently harmful, creating physical and emotional trauma that cannot be regulated or decriminalized away. Prostitution results in a wide range of devastating physical harms and/or psychological trauma to those sold in it—even when it's legal² or fully decriminalized,³ occurs indoors⁴ or outdoors,⁵ online⁶ or off.⁷ Full decriminalization of prostitution does not and cannot make it safe.
4. The best way to reduce sex trafficking and the brutal sexual exploitation of vulnerable and marginalized people is to shrink the prostitution market. The best way to shrink the prostitution market is to target the demand for paid sex, as per the Nordic Model prostitution legislation. Conversely, fully decriminalizing the sex trade grows the prostitution market, creating on-ramps to more sexual exploitation.
5. To repeal the *Protection of Communities and Exploited Persons Act* would be to normalize the demand for paid sex, embolden male sexual entitlement and perpetuate gender-based violence. Instead, full and comprehensive implementation of PCEPA is urgently required.

Canadian Public Opinion on Prostitution Legislation

Recent data has demonstrated that Canadians are more likely to *support* rather than oppose upholding PCEPA, and to *oppose* rather than support legalizing the prostitution industry. A 2020 survey conducted by Nanos Research found that 49% of Canadians support PCEPA and only 11% opposed it (39% were “neutral”). When Canadians were asked their opinion on legalizing prostitution and all activities surrounding it—including buying sex, selling sex, pimping, and owning or operating a brothel — 45% were opposed to this and only 17% supported it (32% were neutral and 6% were unsure).⁸ This data illustrates that upholding PCEPA is democratically warranted, as it corresponds to the vote of the largest percentage of Canadians.

Prostitution Exploits Vulnerability and Marginalization

Prostitution and sex trafficking are inextricably linked, with sex trafficking occurring within the context of prostitution markets. Women and girls (cis and transgender) are specifically trafficked into the sex trade, more so than other forms of exploitation.⁹ The global sex trade is highly profitable and traffickers and pimps supply the people to fill it.

Many people caught in these systems of prostitution suffer from vulnerabilities and marginalization. For example, a 2018 longitudinal study of prostituted women and girls (cis and transgender) in Metro Vancouver found that 72.4% experienced food insecurity, 35.2% were an indigenous minority, and 25.6% were a gender or sexual minority.¹⁰ Other common vulnerabilities associated with prostitution involvement include having a history of childhood sexual abuse¹¹ or foster care,¹² not having a high school degree,¹³ homelessness,¹⁴ poverty;¹⁵ being a racial minority,¹⁶ an immigrant, or an LGBT person,¹⁷ as well as “entry” into prostitution as a child¹⁸ (i.e., child sex trafficking). As noted, prostitution and sex trafficking are highly gendered issues: “the people who are exploited in prostitution are overwhelmingly women, and the people who pay to sexually abuse them are overwhelmingly men.”¹⁹

These vulnerabilities are multifaceted and complex, often intersecting with each other, increasing a person’s vulnerability to sexual exploitation. For example, women and girls of colour and ethnic minorities, are disproportionately victims of both sex trafficking and sexual exploitation in prostitution.

In Canada, Indigenous women make up 50% of sex trafficking victims, but only 4% of the overall population. In Nebraska, USA, 50% of people sold online for sex are African American, yet African American people only make up 5% of the general population.²⁰ The same is true globally; 70% of women prostituted in the EU are migrant women.²¹ In New Zealand, Maori and Pacific girls and women are overly represented in street prostitution (33%-53%).²²

The Sixth Report of the Dutch National Rapporteur in 2008 found that three-fourths of trafficking victims in the Netherlands were from abroad, mainly from Nigeria, Bulgaria, Romania, China, Poland, and Sierra Leone.²³ In Germany’s illegal prostitution market, 65% to 85% of prostituted women are estimated to be immigrants.²⁴ A German law requiring prostituted people to register has been in place since 2017, but only 40,369 prostituted people were registered at the end of 2019. Less than 20% of those registered were German citizens. Most were Romanian (35%), Bulgarian (11%), and Hungarian (8%).²⁵

In the UK, the majority of women involved in indoor prostitution are non-UK nationals.²⁶ Police operations have found that the vast majority of these women are Romanian,²⁷ in some cases, up to 86%.²⁸ In Ireland, up to 40 different nationalities are represented in the indoor sex trade, with 44% of women advertised online originating from Latin America and the Caribbean.²⁹ These figures reveal that the prostitution market places of developed nations have a predatory dependence on under developed nations to make up “the supply” of persons in their sex trades.³⁰

Contrarily, studies have consistently shown sex buyers to come from privileged demographics. For example, a 2017 study based in Minnesota found that the majority of sex buyers in the state are white, middle to upper class, married men.³¹ A 2018 nationally representative US study found that active, high frequency sex buyers are “much more likely” than other men to have an annual income of \$100,000 or more.³²

Prostitution is therefore built upon a system of gender, racial, economic, and social inequality. Systems of prostitution exploit people’s vulnerabilities to ensure there is a constant supply of women and girls to be sold for sex.

Prostitution is Inherently Harmful—Its Harms Cannot be Regulated Away

Sex trafficking and prostitution have serious long-term effects on the physical, mental and psychological health of those involved. This has been proven to be true, regardless of the location in which the prostitution takes place, whether it is online or offline, legalized or decriminalized. Physical violence and psychological trauma are regular occurrences for prostituted people, as confirmed both by people currently in the sex trade and those who have exited. For instance, a 2021 review of New Zealand’s decriminalization law concluded that “violence is a risk every [prostituted person] takes on a daily basis: assault, rape and strangulation are not uncommon.”³³

This violence and trauma are predominantly perpetrated by sex buyers, as well as pimps and traffickers.³⁴ The latter use numerous different tactics to exert their control over prostituted people, including but not limited to emotional and economic coercion, intimidation, and threat of violence.³⁵

Women and girls are forced to endure unwanted sex, inclusive of violent and dehumanizing sex acts at the hands of sex buyers.³⁶ The latter is a significant reason sex buyers purport to buy sex - to use prostituted people to engage in sexual acts that their partners or wives will not partake in.³⁷

Physical Impacts of Prostitution

Prostituted people often experience physical and sexual assault and rape by men who buy them for sex—particularly within street and indoor prostitution contexts—resulting in both internal and external injuries such as head trauma and broken bones.³⁸ Long term health impacts of prostitution can include chronic pain and ongoing gynaecological infections and diseases.³⁹ Prostituted women and girls are more likely to suffer from STIs and are at a higher risk of contracting HIV compared to other populations.⁴⁰ As a meta-analysis of HIV prevalence among 99,878 women in prostitution from 50 countries reported, their “burden of disease is

disproportionately high.”⁴¹ A major contributing factor to this is the refusal of many sex buyers to use condoms and their willingness to pay more for unprotected sex.⁴²

Substance use and addiction are common in prostitution, but do not always precede entry into the sex trade, as is often assumed. Many women turn to substances as a coping mechanism once in the sex trade.⁴³

Mental Health Implications of Prostitution

Prostitution has long-term mental health impacts. Prostituted people experience severe rates of depression and suffer from PTSD at a higher rate than non-prostituted people.^{44 45}

A 2020 meta-analysis of 56 studies from 26 countries, which together included 24,940 participants, examined the psychological health of prostituted women in low- and middle-income countries (LMICs) who worked in a variety of venues, including bars, brothels, lodges, streets or public spaces, home, and online. The meta-analysis reported the pooled prevalence rates for mental health disorders among women in prostitution in LMICs are as follows: 41.8% depression, 21% anxiety, 19.7% PTSD, 40.8% psychological distress, 22.8% recent suicide ideation, and 6.3% recent suicide attempts. The prevalence of mental health disorders found among prostituted women was much higher than the rates found in the general population.⁴⁶

A US study of 478 women in prostitution at a variety of venues, including online, reported that 29% had ever attempted suicide.⁴⁷

A 2017 study of 52 women in street prostitution in Porto, Portugal found that 46.15% reported high suicidal ideation and 44.2% had made at least one suicide attempt, with 30.4% reporting 3 or more suicide attempts. Most of the women interviewed had a mental health diagnosis, most commonly depression (88.2%), followed by anxiety and stress (13.6%).⁴⁸

Similarly, women in indoor prostitution in South Korea report higher levels of PTSD than women outside the sex industry.⁴⁹

It is argued that fully decriminalizing or legalizing the sex trade would mitigate these harms, reduce violence and prevent adverse health impacts. However, legalization and full decriminalization do not live up to these promises.

Results of Legalized and Fully Decriminalized Prostitution

New Zealand: Limited Regulation/Full Decriminalization

The aforementioned 2021 review of New Zealand’s decriminalization model found that prostituted people still face a wide range of physical and mental health harms such as “coercion into unwanted sex acts, high levels of violence, physical injury, unsafe sex... exploitative practices such as long hours... depression, post-traumatic stress disorder (PTSD), anxiety disorders [and] dissociative disorders.”⁵⁰

Germany: Legalization

In Germany, where prostitution is legalized and regulated, women in prostitution still face extreme violence and poverty, the number of brothels, including mega brothels is rising and young migrant women are trafficked into the sex trade to meet the growing male demand for paid sex.⁵¹ In 2007 the German government concluded that legalisation had not achieved its goals of improving working conditions for prostituted people, making prostitution safer or reducing crime related to prostitution.⁵² Ten years later, in 2017, the German government attempted to remedy this by introducing stricter regulations,⁵³ however, this too has been deemed a failure.⁵⁴

An examination of both the New Zealand and German efforts of decriminalization and legalization, respectfully, found that neither approach is meeting its intended objectives. The Coalition Against Trafficking in Women has instead concluded, that prostituted people ‘experience significant abuse and violence (further evidenced by "workplace advice" on how to avoid vaginal pain, rape, and murder), frequently leading to long-term ill-health, PTSD, and addiction. Exit support is lacking or non-existent for those who want it.’⁵⁵ Both countries still view undocumented migrants in the sex trade as ‘illegal workers’, as opposed to likely victims of sex trafficking and therefore deport them, rather than offer them any form of state protection.⁵⁶

The physical and emotional trauma inherent in prostitution cannot be regulated or decriminalized away.

Reducing the Scale of Prostitution Market Reduces Sex Trafficking

The only way to address the inherent harms in prostitution and the targeting of vulnerable and marginalized people for sexual exploitation is to shrink the market for paid sex. Fully decriminalizing or legalizing the sex trade will not stop the violence or the physical and psychological trauma that prostituted people experience at the hands of sex buyers, pimps, and traffickers. Rather, these legal models facilitate the ease with which vulnerable people are sex trafficked and exploited as the following data points attest.

Analysis of data comparing up to 150 countries found that countries with legalized prostitution have larger international human trafficking inflows.⁵⁷ A cross-national study of 39 countries investigating the relationship between a country’s prostitution laws and transnational sex trafficking inflows found that sex trafficking is most prevalent in countries where prostitution is legalized.⁵⁸

A study comparing the legal frameworks, methods of implementation, and outcomes of attempts at prostitution harm reduction in nine countries (Australia, Finland, Germany, Ireland, Netherlands, New Zealand, Spain, South Africa, and Sweden) concluded that attempts to regulate prostitution as a form of work like any other had failed, leading to unchecked growth and lack of enforcement in illegal sectors, and no improvements in levels of violence, reducing stigmatization, reducing reluctance to report violence to police, or access to health services.⁵⁹

A 2018 report estimated Nevada’s commercial sex market, both legal and illegal, is the largest of any state, with 63% more people in prostitution per capita than the next largest state of New York and nearly double that of the third largest, Florida.⁶⁰ The analysis of prostitution advertising in Nevada found that 72% of Nevada’s sex providers have at least some indicator of being young, with the potential of being underage, or working in groups likely to have an active facilitator.⁶¹

In the years following New Zealand fully decriminalizing prostitution in 2003, government reports consistently found that *prostituted persons “were still frequently exploited”* through *violence and threats of violence, debt bondage, rape, leveraging drug addiction*, and the use of fines to *coerce service in commercial sex*.⁶² Furthermore, there is nearly a complete absence of sex trafficking investigations, arrests, or prosecutions despite intelligence from law enforcement and social service agencies indicating prevalent sex trafficking of children and adults. The U.S. Department of State’s 2020 Trafficking in Persons Report reported that *the New Zealand Government did not identify any victims of sex trafficking* during the reporting period and *had no sex trafficking prosecutions*.⁶³

An analysis of 148 online reviews, and 2,424 reply posts of legal prostitution “services” in Australia found that sex buyer admissions of inflicting harm were common and, as opposed to the promises of decreased violence and stigma promised by legalization proponents, it was evident that buyers actively construct and normalize narratives of sexual violation and violence against women in licensed brothels.⁶⁴

Normalization of prostitution through legalization or deregulation has not worked. It has not made prostitution safer **and** it has drastically increased the scale of the sex trade.

In contrast, targeting the demand for paid sex reduces the size of the sex trade. The sex trade is fuelled by male demand for sexual access to predominantly women and girls. Without male demand for paid sex the sex industry would not exist. When sex buyers are penalized, consumer-level demand is constrained. This reduces the scale of the sex trade and curtails sex trafficking, as the data below attests.

| Country | Approximate scale of prostitution between 2006 - 2014 | Population in 2014 | Approximate number of prostituting person per 100,00 population |
|-------------|---|--------------------|---|
| Sweden | 650 – 1,500 | 9,760,142 | 6.65 – 15.4 |
| Netherlands | 9,000 – 20,000 | 16,926,400 | 53.2 – 118.2 |
| Germany | 150,000 – 400,000 | 81,083,600 | 185 – 493.3 |

Source: Walby et al, *Study on the Gender Dimension of Trafficking in Human Beings*. Final Report.⁶⁵

Germany has a prostitution rate between 30 and 40 times that of Sweden, a country that criminalizes sex buying.⁶⁶ New Zealand (fully decriminalized), which has a population of 4.5 million, has between 6000 and 8000 women in prostitution, which is 12 to 16 times that of the sex trade in Sweden.⁶⁷ A study comparing the effect of criminalization of sex buying on the amount of sex bought in Denmark (sex buying is legal), Norway (sex buying criminalized), and

Sweden found that 2.6% of Danes had purchased sex in the past six months, compared to 1.7% of Norwegians and 0.5% of Swedes.⁶⁸

Countries that target the demand for paid sex by criminalizing those who buy it are less viable options for those looking to exploit vulnerable people for prostitution and sex trafficking.⁶⁹

Full and Comprehensive Implementation of the *Protection of Communities and Exploited Persons Act* is Urgently Required.

To disrupt systems of prostitution and sexual exploitation and to protect the most vulnerable in our societies, it is imperative that laws targeting sex buyers are maintained and implemented.

The *Protection of Communities and Exploited Persons Act* must be strongly implemented and enforced across the country as a matter of urgency. Lack of implementation gives the impression to current and future sex buyers that they have full immunity to sexually access the bodies of marginalized women and girls. Strong implementation and enforcement of such laws does the opposite.

When the Nordic Model of prostitution legislation, upon which the *Protection of Communities and Exploited Persons Act* is based, is implemented in full, sex trafficking decreases, the sex trade shrinks and fewer people are harmed. However, this requires a commitment by the State to provide the necessary resources for full implementation, including police enforcement and ongoing monitoring and evaluation. It also includes provision of a significant range of services inclusive of but not limited to safe exit routes, employment and educational opportunities, and access to healthcare for those exploited in the sex trade.

France which enacted Nordic Model legislation in 2016 places these provisions, as well as legal rights, on a statutory basis, without discrimination (i.e. migrant women have the same rights as French nationals).⁷⁰ France also proactively uses the funds generated from sex buying fines to support service provision. This tactic has also been used in other countries such as the US and the UK; it makes implementing sex buyer laws very cost effective.⁷¹

Shifting the burden of criminality from the seller of sex to the person who buys it is also paramount to the success of the law. This approach removes further marginalisation and vulnerability of prostituted people, providing them with the opportunity to viably access services and exit routes.⁷² This stands in contrast to full decriminalization, which removes their criminality but builds on ramps for further sexual exploitation by growing the market for prostitution due to its elimination of criminal penalties for sex buyers.

Removal of a statute that targets sex buyers normalizes male demand for paid sex.⁷³ Laws are declarative in nature. They are our best teachers. *The Protection of Communities and Exploited Persons Act* affirms the human rights and dignity of all people by declaring that it is not legal or a right to buy another human being for sexual access to their body. To repeal this Act would be to reaffirm male sexual entitlement and send the message that women, as well as men and transgender persons in prostitution, are nothing but sexual objects who can be bought and sold, used, and abused.

Further, men who were deterred from buying sex by possible criminal penalties would no longer be inhibited, should this criminalization be repealed.⁷⁴ We know from the evidence cited above that as more men buy sex, more people are pulled into and exploited in prostitution. Therefore, the approach of decriminalizing sex buying not only perpetuates a culture of male sexual entitlement and female sexual objectification, but it directly results in further exploitation and gender-based violence.

Conclusion

Full decriminalization and/or legalization of the sex trade does not work. As more men buy sex and the demand for paid sex grows, more people are pulled into and exploited in prostitution. Sex trafficking grows as pimps and traffickers work to meet this demand.

However, criminalizing buyers of sex and decriminalizing the sellers of sex reduces the scale of the sex trade.

The Protection of Communities and Exploited Persons Act has the potential to shrink the sex trade and prevent vulnerable and marginalized people from being exploited, thus protecting them from the physical and psychological trauma of prostitution. But this requires full, comprehensive implementation of the law, inclusive of police enforcement of criminalizing the buyers of sex, as well as support services and exit routes for prostituted people.

We urge the Canadian Government to defend the *Protection of Communities and Exploited Persons Act* and to urgently implement its conditions. By doing this, you will protect the most vulnerable people from sexual exploitation. Criminalizing the men who access the bodies of women and girls to do with what they wish, regardless of how dehumanizing, degrading, or violent, will reduce the sex trade and its harms. It will also send a clear message to the Canadian people that no person should be bought and sold, for any reason.

Sincerely,

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¹ Nanos, *Canadians are five times more likely to support than oppose Canada's current prostitution legislation* (Nanos for the London Abused Women's Centre, July 2020), <https://www.nanos.co/wp-content/uploads/2020/08/2020-1689-LAWC-July-Populated-Report-FINAL-Updated-with-Tabs.pdf>

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³ Natalie Thorburn, “Practitioner Knowledge and Responsiveness to Victims of Sex trafficking in Aotearoa/New Zealand,” *Women’s Studies Journal* 31, no. 2 (2017): 77-96; New South Wales. Parliament. Legislative Assembly, “Inquiry into the Regulation of Brothels,” *Select Committee on the Regulation of Brothels*, Report 1/56, November (2015), https://www.parliament.nsw.gov.au/ladocs/inquiries/1703/Final_Report_-_Inquiry_into_the_Regulation_of_Brot.pdf; U.S. Department of State, “Trafficking in Persons Report, Country Narrative for New Zealand,” (2021): 416-419, www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf; ECPAT Child Alert, “Sexual Exploitation of Children in New Zealand Submission for the Universal Periodic Review of the Human Rights Situation in New Zealand to the Human Rights Council 32th Session (January 2019) UPR third cycle 2017 – 2021” (2018), www.ecpat.org.nz/publication/19; Jovanovski and Tyler, *ibid.* See also Penny White, “Remembering the Murdered Women Erased by the Pro-Sex Work Agenda,” *Feminist Current* (November 3, 2015), feministcurrent.com/2015/11/03/remembering-the-murdered-women-erased-by-the-pro-sex-work-agenda/ (accessed October 13, 2021).

⁴ W. Rössler, *ibid.*; Schon and Hoheide, *ibid.*; Jewkes *ibid.*; Hyunjung Choi et al, “Posttraumatic Stress Disorder (PTSD) and Disorders of Extreme Stress (DESNOS) Symptoms Following Prostitution and Childhood Abuse,” *Violence Against Women* 15, no. 8 (2009): 933–951, doi: [10.1177/1077801209335493](https://doi.org/10.1177/1077801209335493); Bella Chudakov et al, “The Motivation and Mental Health of Sex Workers,” *Journal of Sex and Marital Therapy* (2002): doi: [10.1080/0092623090001439](https://doi.org/10.1080/0092623090001439); Young-Eun Jung, “Symptoms of Posttraumatic Stress Disorder and Mental Health in Women Who Escaped Prostitution and Helping Activists in Shelters,” *Yonsei Medical Journal* 49, no. 3 (2008):372–382, doi: [10.3349/ymj.2008.49.3.372](https://doi.org/10.3349/ymj.2008.49.3.372).

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⁶ Susanne Drückler et al., “Substance Use and Sexual Risk Behavior among Male and Transgender Women Sex Workers at the Prostitution Outreach Center in Amsterdam, the Netherlands” *Sexually Transmitted Diseases* 47. No. 2 (2020): 114–121, doi: [10.1097/OLQ.0000000000001096](https://doi.org/10.1097/OLQ.0000000000001096); Hickie and Roe-Sepowitz, *ibid.*; Elinor May Cruz and Trina Joyce Sajo, “Exploring the Cybersex Phenomenon in the Philippines,” *The Electronic Journal of Information Systems in Developing Countries* 69, no. 1 (2015): 1-21, doi: [10.1002/j.1681-4835.2015.tb00499.x](https://doi.org/10.1002/j.1681-4835.2015.tb00499.x). See also Thula Kooops, Arne Dekker, and Peer Briken, “Online Sexual Activity Involving Webcams—An Overview of Existing Literature and Implications for Sexual Boundary Violations of Children and Adolescents,” *Behavioral Sciences and the Law* 36 (2018):182–197, doi: [10.1002/bsl.2333](https://doi.org/10.1002/bsl.2333).

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⁹ UN Secretary General, *Trafficking in women and girls: Report of the Secretary-General*, United Nations General Assembly, Seventy-Fifth Session, (New York, 2020), <https://undocs.org/en/A/75/289>

¹⁰ Daniella Barreto, et al., “The Effect of Violence and Intersecting Structural Inequities on High Rates of Food Insecurity among Marginalized Sex Workers in a Canadian Setting,” *J Urban Health* 96 (2019): 605-615, doi: [10.1007/s11524-018-0281-3](https://doi.org/10.1007/s11524-018-0281-3).

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