



BRIEF SUBMISSION TO THE HOUSE COMMITTEE ON JUSTICE AND HUMAN RIGHTS: REVIEW OF THE PROTECTION OF COMMUNITIES AND EXPLOITED PERSONS ACT

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We, the Sex Workers of Winnipeg Action Coalition, have been working to diminish the harms of the Protection of Communities and Exploited Persons Act since its inception as Bill C-36 in 2014. Our members both witnessed and experienced first-hand the harms of the previous sex work-focused laws of Canada, and were vocal in our insistence that PCEPA would recreate the same harms by criminalizing clients.

PCEPA's entire goal is centred in ending demand for sexual services in Canada¹. That is to say, the law's stated position is to stamp out an entire industry and method of income for a great swath of Canadians and people living within our borders. That is absolutely incompatible with the ruling in *Bedford v. Canada*, the case that PCEPA owes its existence to.

When *Bedford v. Canada* was decided in support of the plaintiffs, we as sex workers rejoiced - with trepidation. There was, at last, Supreme Court-level acknowledgement of the harms that anti-prostitution laws in Canada were having on the charter freedoms of sex working people on these lands. However, we knew that new laws would be written to replace them. Our trepidations were realized with the introduction of Bill C-36.

Imagine our lack of surprise when, in consultation for Bill C-36, sex worker voices were de-prioritized in favour of voices pushing to end the industry entirely (sex work abolitionists, who now use the terminology of "end demand"). After an historic win in *Bedford*, suddenly the sex workers whose charter rights were being fought for were no longer a priority.

We hear the message touted often - that selling sex is not illegal in Canada under PCEPA. Nothing could be further from the truth. Criminalizing clients, criminalizing folks who stop cars to sell or obtain sexual services, advertising, working together, and working *for* a sex worker (say, as a manager, bodyguard, or photographer) are all illegal - and are all things central to operating a business in any other industry. This is a clear infringement, and one that was basically already argued under *Bedford*, just with new language. These laws keep sex workers from being able to work together, and negotiate our boundaries, prices, and consent safely specificity because of the criminalization involved².

¹ S.C. (2014), *Protection of Communities and Exploited Persons Act* https://laws-lois.justice.gc.ca/eng/annualstatutes/2014_25/page-1.html

² McBride et al. (2019): *Harms of End-Demand Criminalization: Impact of Canada's PCEPA laws on sex workers' safety, health, and human rights*. http://www.cgshe.ca/app/uploads/2019/12/Harms_2019.12.16.v1.pdf

This isn't new. We need to ask ourselves, as McGill law professor Angela Campbell did around the creation of PCEPA, which communities are we aiming to protect when we talk about PCEPA³? What is nuisance behaviour, and who are we harming when we insist that a community's right to not see a sex worker on the street outweighs that sex worker's right to their charter freedoms?

We know, as a society, that **prohibition does not work**. 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. It forces the prohibited behaviour into the margins, away from safety and community⁴. 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 that blinded imbibers during prohibition of alcohol in the US⁵ 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. That's what Bedford was meant to challenge. Why, then do we have a new set of laws that recreate the same harms?

Being based in Winnipeg, we have our own unique experience of sex work. Our context as a prairie city is unique, which is something we've had pointed out as a reason to only listen to abolitionist arguments from the prairies. You need to hear and include our voices as sex workers when making laws about us. It is absolutely imperative, and we are a bit astounded that this isn't step 1 in consultations with government.

Sex workers know what keeps us safe, and it is not criminalization of our work. We have lived, first hand, the effects of criminalization and are demanding that our voices 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. The end-demand model employed by PCEPA was introduced and encouraged by people who want to end the industry entirely, to end livelihoods, and criminalize folks trying to live.

³ Campbell, A. (2015) *Sex Work's Governance: Stuff and Nuisance*. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2587112

⁴ Global Network of Sex Work Projects (2018). *The Impact of 'End Demand' Legislation on Women Sex Workers*. https://www.nswp.org/sites/nswp.org/files/pb_impact_of_end_demand_on_women_sws_nswp_-_2018.pdf

⁵ Time Magazine (2015). *The History of Poisoned Alcohol Includes an Unlikely Culprit: The U.S. Government*: <https://time.com/3665643/deadly-drinking/#:~:text=Whether%20it's%20sold%20to%20drinkers,world%20and%20across%20the%20decades.>

End-demand models also do not make sex workers any safer - in fact they're shown to discourage folks from accessing supports like health services and the justice system⁶.

The Sex Workers of Winnipeg Action Coalition want to make abundantly clear that we, too, are against exploitation and trafficking. However, we remind you that these abhorrent acts are illegal under other sections of the Criminal Code and Immigrant and Refugee Protection Act. We have laws that aren't over-broad to address exploitation that don't create stigma around sex work. We have a wealth of information, lived experience, and research to draw on, as well as being in the middle of a constitutional challenge against provisions of this very set of laws.

Sex workers are part of our community, part of your community. We're your constituents, your friends and colleagues. We deserve to be treated as such, as we are promised under the Charter of Rights and Freedoms.

Again we remind you to fight exploitation, not sex workers.

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Founded in 2014 in response to the creation of then-Bill C-36, the Sex Workers of Winnipeg Action Coalition is a sex worker-led advocacy and activist organization based on Treaty One territory in Winnipeg, Manitoba. We are a group of sex workers, allies, and researchers fighting for sex workers' labour and human rights. We are a member of the Canadian Alliance for Sex Work Law Reform, along with over 20 other member groups from coast to coast.

⁶ McBride et al. (2019): *Harms of End-Demand Criminalization: Impact of Canada's PCEPA laws on sex workers' safety, health, and human rights*. http://www.cgshe.ca/app/uploads/2019/12/Harms_2019.12.16.v1.pdf