



Yukon Status of Women Council Brief to the Standing Committee on Public Safety and National Security

May 2024

Background

Yukon Status of Women Council (YSWC) is a territorial non-profit organization based in Whitehorse, Yukon. As an intersectional, decolonial feminist research organization, we occupy a unique position within the gender justice community because we are the only non-governmental organization that has the mandate to work on gender justice issues with all levels of government, conduct research, develop and follow-through with actionable recommendations, and provide a platform for amplifying Yukon women's voices. A participatory approach grounded in the issues and concerns of Yukon women is then translated into systemic and structural change, centring the community's concerns and salient, emergent issues.

As a project-based organization, we facilitate the Supporting Worker's Autonomy Project Yukon (SWAPY). This project is built to increase options for the wellbeing and safety for people who trade sex in the Yukon, as well as supporting people who have experienced sexualized exploitation and trafficking. It is critical to not conflate these two terms, recognizing some sex workers experience exploitation and trafficking, and some survivors of trafficking also do sex work. Our focus is on providing non-directive support from the individual's experience. A large portion of our project's work involves countering damaging narratives about sex work and the harms that are a direct result of conflating sex work and trafficking in policy and law. SWAPY works with a diverse range of community partners to reduce sex work stigmatization and misinformation through conducting research on promising practices; engaging in an iterative process with partners to support increasing their accessibility to sex workers through policy analysis, recommendation, implementation; public education and training; and advocacy.

As advocates, we feel this bill raises significant concerns regarding privacy, censorship, and furthers the stigmatization of marginalized communities. This brief outlines our core arguments against Bill S-210, emphasizing its potential for harm and ineffectiveness in achieving its intended goals.

Privacy and Security Concerns

Bill S-210 mandates age verification through unspecified "prescribed age verification methods" which could lead to significant privacy violations. These methods collect sensitive personal data, including biometric data, government identification, and user activity, creating a high risk of data breaches and unauthorized access. Users' online behaviors, interests, and sexual inclinations are among the sensitive information that these services gather. The bill's ambiguous language on age verification techniques creates uncertainty about data security and privacy safeguards. Demanding a third party verification service be used prohibits major platforms like Facebook and Google from using their own verification processes, increasing costs and complications in order to maintain compliance with the proposed legislation¹. Furthermore, worries about government overreach and the violation of people's right to privacy are raised by the possibility that governments and law enforcement may surveille, obtain and weaponize this information, particularly against marginalized communities.

The age verification methods included in the proposed legislation violate users' privacy significantly and incorporate sexist, racist, transphobic and queerphobic biases into their algorithms. There are valid concerns about whether third party verification processes can be both accurate and maintain the privacy of its service users, which must be addressed.

Concerning Scope and Censorship

The broad scope of Bill S-210 means it can easily be extended beyond its goal of protecting children from accessing sexually explicit material. By encompassing all forms of such content online, the bill risks disproportionately censoring marginalized voices, including women, LGBTQ2S+ individuals, sex workers, and racialized communities². This censorship undermines freedom of expression and perpetuates systemic inequalities by further silencing already marginalized voices. Furthermore, the selective application of these censorship measures deepens existing biases and discrimination within online platforms and communities, and creates additional barriers for adult content creators using these platforms for business.

The impact of this censorship extends beyond mere content moderation, affecting the livelihoods and autonomy of those who rely on online platforms for income and community building. Independent content creators, including sex workers and artists, face the threat of financial hardship and even more avenues for stigmatization and criminalization as a result of increased content restrictions and platform censorship, while larger adult websites would remain unaffected. Moreover, the bill's failure to consult with affected communities further marginalizes those whose voices are already underrepresented or wholly ignored in legislative processes. This not only perpetuates systemic discrimination and exclusion, but reinforces racist, sexist and infantilizing narratives and legislative attempts at eroding individual autonomy.

For LGBTQ2S+ communities, access to sexually explicit material is crucial for self-expression and education, particularly in the increasingly hostile environments we are seeing online. The bill's restrictive measures feed into the current wave of anti-trans ideology, further marginalizing these groups by limiting their access to necessary resources and invaluable community support.

¹ Safiya Umoja Noble, *Algorithms of oppression: How search engines reinforce racism*, 1st Ed (New York, NYU Press, 2018).

² Gianluca Mauro & Hilke Schellmann, "‘There is no standard’: investigation finds algorithms objectify women's bodies" (The Guardian, 2023).

Conflation of Sex Work & Sexualized Exploitation and Violence

A fundamental flaw of Bill S-210 is its conflation of sex work with sexualized exploitation and violence. The legislation feeds negative perceptions and stigma against an already criminalized and stigmatized population by failing to distinguish between the creation of consensual adult content and exploitative behaviors. Sex workers' autonomy and agency are undermined by this conflation, which denies them from accessing vital services and support systems. Furthermore, it ignores the variety of experiences and viewpoints present in the sex work community and perpetuates damaging stereotypes that associate sex work with victimhood.

The conflation of sex work with sexualized exploitation and violence feeds into harmful stereotypes and impedes initiatives to advance the rights of sex workers. In ignoring both the autonomy of sex workers and the diversity of experiences in the sex work community, this bill continues to perpetuate systemic discrimination and exclusion of sex worker communities, especially those who are racialized, LGBTQ2S+ or im/migrants.

No Consultation with Sex Worker Communities

The lack of meaningful consultation with sex workers throughout the drafting of Bill S-210 is indicative of a structural dismissal of their knowledge and personal experiences. This lack of consultation with sex workers during the development of Bill S-210 highlights a broader pattern of infantilization and exclusion within legislative processes. Sex workers, particularly those from marginalized communities, are often overlooked and disregarded in discussions about policies that directly impact their lives and livelihoods³. This exclusion not only perpetuates systemic discrimination but also undermines the effectiveness and legitimacy of the resulting legislation. When legislation is informed by inaccurate narratives and bad data, it cannot be effective in addressing the complex social issues it seeks to combat.

Infringing on Sex Workers' Right to Work

Sex workers and adult content creators, particularly those from marginalized communities, will face disproportionate impacts from the bill's implementation. In addition to endangering their privacy, criminalization and heightened scrutiny push these workers into more precarious conditions, hindering their ability to conduct business safely and effectively. This proposed measure compounds the harm of systematic discrimination and exclusion by violating the right of sex workers to work independently and safely, further working to marginalize an already criminalized group.

Ineffectiveness in Protecting Youth

Age verification is unlikely to effectively prevent young people from accessing sexually explicit material. Evidence from France shows a rise in the use of Virtual Private Networks (VPNs) among young people to bypass age verification systems where similar age verification processes are in effect⁴. Additionally, young people are familiar with sharing content through methods such as email and instant messaging platforms, rendering the proposed verification process ineffective at actually preventing youth from accessing sexually explicit materials online. Bill S-210 will be not only ineffective in preventing youth from accessing these materials, but can also restrict their access to comprehensive sexual health

³ E. Argento et al., "The impact of end-demand legislation on sex workers' access to health and sex worker-led services: A community-based prospective cohort study in Canada," *PLoS One* 15(4), April 6, 2020:e0225783. doi: 10.1371/journal.pone.0225783.

⁴ CNIL, "Online age verification: balancing privacy and the protection of minors" (22 September 2022), online: <<https://www.cnil.fr/en/online-age-verification-balancing-privacy-and-protection-minors>>.

information and online communities in which they can safely learn, explore and navigate their own sexual health, bodily autonomy and sexuality.

Recommendations

1. **Reject Bill S-210**

This bill violates everyone's civil liberties and raises serious privacy concerns. Its broad definition of "legitimate" uses of language in relation to education, science, the arts, and medicine makes it susceptible to moral censorship of non-cisheteronormative sexuality. It also encompasses any information that is sexually explicit.

2. **Decriminalize sex work - Remove *Protection of Communities and Exploited Persons Act (PCEPA)***

Sex work must be fully decriminalized, for all, at all levels of government. Over-surveillance, privacy violations, raids, detention, deportation and other forms of sex worker criminalization must end immediately to ensure the safety, autonomy, privacy and livelihoods of all sex workers.

3. **Encourage access to comprehensive sexual health education, mental health support, and inclusive dialogue around sexuality in the place of prohibition/punitive legislation**

A robust sex-positive approach is required to support people of all ages to better understand consent, sexuality, mental health and healthy relationships. With this approach, we can better support youth and all individuals in Canada in accessing reliable, accurate and equitable information as a method of harm reduction. Exploration of bodily autonomy, sexuality, sexual health and behaviours should not be informed by punitive legislation, but by accessible, equitable and comprehensive sexual education and access to safe virtual community spaces, especially as transphobia, racism, queerphobia and discrimination are increasingly spreading across the internet. Prohibition has never been successful with ending demand for anything, whether it be alcohol, drugs or sex work. Prohibition and punitive regulation undeniably make working conditions and community access points less safe and accessible for everyone, while simultaneously not addressing the complex social issues they seek to regulate.

4. **Consult sex workers on safety online**

It is necessary to include sex workers in decision-making processes when formulating policies that impact their lives, such as when developing and implementing legislation regarding online safety. Sex workers have long been at the forefront of online safety; harm reduction; digital literacy and online security, and legislation would benefit greatly from engaging and learning from them. By fostering a more inclusive approach, policymakers can benefit from the lived experiences and insights of those directly affected, and be more effective in addressing unintended negative consequences.⁵

Conclusion

Bill S-210, purportedly aimed at protecting children, instead poses significant privacy risks for all Canadians. It fails to address the root causes of the issues it seeks to mitigate and instead places undue burdens on marginalized communities, jeopardizes privacy, and fosters

⁵ E. Argento et al., "The impact of end-demand legislation on sex workers' access to health and sex worker-led services: A community-based prospective cohort study in Canada," *PLoS One* 15(4), April 6, 2020:e0225783. doi: 10.1371/journal.pone.0225783.

censorship. This bill further infringes upon sex workers' rights to work, and further increases barriers to conducting business online. A more effective approach would involve comprehensive sexual health education, mental health support, and inclusive dialogue around sexuality, rather than criminalizing and surveilling human bodies. The bill's current form poses significant risks and should be reconsidered in favour of solutions that truly protect and empower all individuals in society. We implore you to consider these recommendations and vote against this bill moving forward.