

Canada's Prostitution Laws



Pre-PCEPA

Quasi-criminal approach

Prostitution itself was legal but all activities around it were not



<https://www.cbc.ca/news/canada/prostitution-laws-struck-down-by-ont-court-1.869999>



“these appeals and the cross-appeal are not about whether prostitution should be legal or not, they are about whether the laws that parliament has enacted on how prostitution may be carried out pass constitutional muster. I conclude that they do not.”

Chief Justice

Supreme Court of Canada



Protection of Communities and Exploited Persons Act Bill C-36

June 4, 2014 tabled in Parliament

<https://www.cpac.ca/episode?id=0202d7e5-b6f6-46cf-b35f-df8ae584063f>

December 6, 2014 Royal Assent

An Act to amend the Criminal Code in response to the Supreme Court of Canada decision in Attorney General of Canada v Bedford and to make consequential amendments to other Acts

Based on the Nordic model of law first enacted in Sweden and often called the Equality Model



The Swedish or Nordic Model

Three-pronged approach

1. Criminalize demand, recognizing the power imbalance between seller and buyer. Demand drives the prostitution market. Seller not criminalized.
2. Provide exit services to prostituted individuals so they can exit
3. Educate law enforcement and the public



Preamble

- Whereas the Parliament of Canada has grave concerns about the exploitation that is inherent in prostitution and the risks of violence posed to those who engage in it;
- Whereas the Parliament of Canada recognizes the social harm caused by the objectification of the human body and the commodification of sexual activity;
- Whereas it is important to protect human dignity and the equality of all Canadians by discouraging prostitution, which has a disproportionate impact on women and children;
- Whereas it is important to denounce and prohibit the purchase of sexual services because it creates a demand for prostitution;
 - Whereas it is important to continue to denounce and prohibit the procurement of persons for the purpose of prostitution and the development of economic interests in the exploitation of the prostitution of others as well as the commercialization and institutionalization of prostitution;
 - Whereas the Parliament of Canada wishes to encourage those who engage in prostitution to report incidents of violence and to **leave prostitution**;
 - And whereas the Parliament of Canada is committed to protecting communities from the harms associated with prostitution

Summary

This enactment amends the [Criminal Code](#) to, among other things,

- (a) create an offence that prohibits purchasing sexual services or communicating in any place for that purpose;*
- (b) create an offence that prohibits receiving a material benefit* that derived from the commission of an offence referred to in paragraph (a);
- (c) create an offence that prohibits the advertisement of sexual services offered for sale and to authorize the courts to order the seizure of materials containing such advertisements and their removal from the Internet;
- (d) modernize the offence that prohibits the procurement of persons for the purpose of prostitution;
- (e) the purpose of selling sexual services — 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; [controversial and us and many more argued for its removal with the justice committee; targets the vulnerable]
- (f) ensure consistency between prostitution offences and the existing human trafficking offences; and
- (g) specify that, for the purposes of certain offences, a weapon includes any thing used, designed to be use or intended for use in binding or tying up a person against their will.
- *EXCEPTIONS: Sellers exempt and Sellers can hire bodyguards, receptionists, etc
- https://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/



June, 2021 StatsCan report on PCEPA charges

<https://www150.statcan.gc.ca/n1/daily-quotidien/210621/dq210621c-eng.htm?CMP=mstatcan>

- Police-reported crimes related to the sex trade fell by over half (-55%) from 2010 to 2019, driven by fewer incidents of stopping or impeding traffic, or communicating for the purpose of offering, providing or obtaining sexual services.
- Fewer women were charged with or convicted of crimes related to the sex trade. the proportion of women accused in police-reported sex trade-related crimes dropped from 42% in 2010 to 22% in 2014. By 2019, five years after the implementation of the PCEPA, women represented 5% of those accused in a sex trade-related crime.
- Similarly, in the criminal court system, women previously accounted for more than one in four (27%) persons accused in a sex trade-related case in the five-year period prior to implementation of the PCEPA. This proportion declined to less than 1 in 10 (9%) in the five-year period following the change.



June, 2021 StatsCan report on PCEPA charges

<https://www150.statcan.gc.ca/n1/daily-quotidien/210621/dq210621c-eng.htm?CMP=mstatcan>

- Fewer homicides of sex workers since PCEPA as noted in the Homicide Survey. 35 homicides of sex trade workers between 2015 and 2019 as compared to 54 between 2010 and 2014.
- VERY notable since the number of homicides in Canada overall increased from 2,745 to 3,229.
- Another notable statistic is that Homicides were less likely by clients, drug dealers or gang members since PCEPA dropping from %43 in the 5 years before PCEPA to %29 following PCEPA.:
- Since PCEPA up to 2019, 38% of sex trade worker victims were killed by a casual acquaintance or a stranger.
- There's also been a decline in physical injuries since PCEPA: Dropped from %29 to %17
- PCEPA is not only constitutional, the data indicate that it is safer for those in the sex trade.



June, 2021 StatsCan report on PCEPA charges

<https://www150.statcan.gc.ca/n1/daily-quotidien/210621/dq210621c-eng.htm?CMP=mstatcan>

- At the same time, there were more incidents related to the new purchasing offences as well as third-party offences—crimes primarily committed by men.
- The number of men accused of obtaining sexual services from an adult or from a minor increased from 132 in the five years prior to the new law to 2,489 in the five years after. Most men (92%) accused of these offences were criminally charged.



CURRENT CHALLENGES

1. Current Review of PCEPA by Justice Committee

<https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11604373/br-external/DefendDignity-e.pdf>

Arguments against PCEPA:

- a. Makes those selling unsafe**
- b. Stigmatization of police**
- c. Deportation of migrant sex workers**
- d. Conflation of prostitution and sex trafficking**
- e. New Zealand model**

Family First Research/New Zealand

<https://www.scoop.co.nz/stories/PO2112/S00038/prostitution-law-review-benefits-exaggerated-shortcomings-ignored-denied-or-hidden.htm>



CURRENT CHALLENGES

2. **Lack of enforcement in locations across Canada**
3. **Lack of sufficient funding included in this Act**
4. **Sex work as work narrative everywhere**

Palermo Protocol

Section 3, Article 9 # 5 states:

States Parties shall **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, that leads to trafficking.**

<https://www.ohchr.org/en/instruments-mechanisms/instruments/protocol-prevent-suppress-and-punish-trafficking-persons>



CURRENT CHALLENGES

5. **Current challenge by Alliance for Sex Work Law Reform of all provisions in Ontario Superior Court** <https://sexworklawreform.com/>

https://www.cbc.ca/amp/1.4843505?fbclid=IwAR2D3iWUATQhIj6jsRFTENZ5705vBN1868FxbMtpvFv_yMqnl0RWHhGtKiU

<http://prostitutionresearch.com/wp-content/uploads/2013/12/Speaking-of-Prostitution-2013-Sweden1.pdf>

https://www.ucd.ie/geary/static/serp/Shifting_the_Burden_Report.pdf



The Case(s) of the Reasonable Hypothetical Sex Worker

Dr Debra M Haak
Queen's University,
Faculty of Law
May 2021



<https://vimeo.com/542826062/1147cd5669>



Dr. Haak asks if our model complies with our Charter of Rights and Freedoms.

***Section 286.5 of PCEPA* immunizes the prostituted from being prosecuted. Sellers do not have to choose between liberty and security as mentioned in section 7 of charter.**

Dr. Haak's view on challenges in the upcoming court challenge:

- 1. Court relies on expert witnesses and the largest body of academic articles are done by those in favour of sex 'work'**
- 2. Court relies on "reasonable hypothetical sex worker" and does not typically listen to evidence from real exploited individuals – their voices are silent in the court room**

***hypothetical sex worker is always an adult, voluntarily choosing sex 'work' where no harm is ever done. No context is ever provided**





NATIONAL CENTER ON
SEXUAL EXPLOITATION

10 REASONS

TO OPPOSE

FULL DECRIMINALIZATION OF PROSTITUTION

CONFRONTING DISASTROUS PUBLIC POLICY
NORMALIZING SEX BUYERS, PIMPS,
AND BROTHEL KEEPERS

https://endsexualexploitation.org/wp-content/uploads/NCOSE_10-Reasons-to-Oppose-Full-Decrim_FINAL_web-version_w-citations_2-15-22.pdf



DISCOURAGING THE DEMAND

that fosters trafficking for the
purpose of sexual exploitation

OCCASIONAL PAPER NO. 11

<https://www.osce.org/cthb/489388>



Prostitution must not be the answer to the social issues of poverty, homelessness, marginalization and racism.



Value of Government Lobbying

1. Change can come through laws – they are a teacher
2. Laws shape culture e.g. Sweden; e.g smoking laws
3. Need both victim care and good laws

Defend Dignity's Advocacy

1. Educate MPs and Senators
2. Collaborate
3. Educate and engage the public

https://defenddignity.ca/wp-content/uploads/2021/09/Guide_Meet-Your-MP_DefendDignity_July2021.pdf

<https://defenddignity.ca/pcepa/>



Send a Letter

Send this letter in support of PCEPA to the committee that is currently reviewing the laws. If you can, add a few lines to personalize the letter.

Email committee members, your MP, & the Justice Minister in one click!

Title * ▼

Full Name *

Address *

Canada ▼

Contact Your MP

Ask your MP to stand up for PCEPA. Defend Dignity can help you reach out to them by phone, email, or even a zoom call.

Start by finding your MP.

Find Your MP

These guides will help prepare you for a phone call or zoom meeting with your MP. If you'd like, we can join you for the zoom call!

Call Your MP (PDF)

or

Meet Your MP (PDF)

When you do talk to your MP, share the following

Share

Rally your friends! Click the icons below to create a pre-written tweet about this campaign.



"Because of PCEPA, I exited the industry in 2016" – Canadian survivor of prostitution



"PCEPA saved my life" – Canadian survivor of prostitution



"These survivors of prostitution think Canada should keep its End Demand prostitution laws" (includes video)

Law reform is a marathon and not a sprint

**PCEPA is the best way to lessen and stop the harms of
prostitution.**

Let's work to keep it in place!

