

# Canadian Alliance for Sex Work Law Reform v. Attorney General

## BACKGROUND

In March 2021, a constitutional challenge against Canada’s sex work laws—the Protection of Communities and Exploited Persons Act (PCEPA)—was launched to address violations of sex workers’ basic rights. On September 18th, 2023, the Ontario Superior Court [dismissed this challenge and declared PCEPA constitutionally sound](#), despite ongoing harms to the sex work community.

In this constitutional challenge, the applicants state that the following Charter rights and freedoms are being unjustly denied to sex workers:

### [S. 7](#) — THE RIGHT TO LIFE, LIBERTY AND SECURITY OF THE PERSON

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

### [S. 2\(b\)](#) — FREEDOM OF EXPRESSION

Freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.

### [S. 2\(c\)](#) — FREEDOM OF PEACEFUL ASSEMBLY

Freedom of peaceful assembly. (‘Peaceful assembly’ refers to one’s right to “gather with others and express ideas”<sup>1</sup>).

### [S. 15](#) — EQUALITY RIGHTS

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.

---

<sup>1</sup> Constitutional Studies (n.d.). [Freedom of peaceful assembly](#).

The Criminal Code provisions that were challenged in this case are:

### S. 213(1). — STOPPING OR IMPEDING TRAFFIC

Everyone is guilty of an offence punishable on summary conviction who, in a public place or in any place open to public view, for the purpose of offering, providing or obtaining sexual services for consideration, (a) stops or attempts to stop any motor vehicle; or (b) impedes the free flow of pedestrian or vehicular traffic or ingress to or egress from premises adjacent to that place.

### S. 213(1.1). — COMMUNICATING TO PROVIDE SEXUAL SERVICES FOR CONSIDERATION (“THE COMMUNICATING OFFENCE”)

Everyone is guilty of an offence punishable on summary conviction who communicates with any person—for the purpose of offering or providing sexual services for consideration—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.

### S. 286.1(1). — OBTAINING SEXUAL SERVICES FOR CONSIDERATION

Everyone who, in any place, obtains for consideration, or communicates with anyone for the purpose of obtaining for consideration, the sexual services of a person is guilty of [an offense.]

### S. 286.2(1). — RECEIVING A MATERIAL OR FINANCIAL BENEFIT KNOWING THAT IT IS OBTAINED FROM THE PURCHASE OF SEXUAL SERVICES (“THE MATERIAL BENEFIT OFFENCE”)

Everyone who receives a financial or other material benefit, knowing that it is obtained by or derived directly or indirectly from the [purchase of sexual services... is guilty of an offence.]

## S. 286.3(1) — PROCURING, RECRUITING, HOLDING, CONCEALING, OR HARBOURING A PERSON WHO PROVIDES SEXUAL SERVICES FOR CONSIDERATION

Everyone who procures a person to offer or provide sexual services for consideration or, for the purpose of facilitating an offence under subsection 286.1(1), recruits, holds, conceals or harbours a person who offers or provides sexual services for consideration, or exercises control, direction or influence over the movements of that person, is guilty of an indictable offence...

## S. 286.4 — ADVERTISING AN OFFER TO PROVIDE SEXUAL SERVICES

Everyone who knowingly advertises an offer to provide sexual services for consideration is guilty of [an offence.] (With the exception of advertising one's own sexual services.)

## SWAN's Recommendations

- **Decriminalize sex work** in Canada to ensure sex workers have access to their basic human rights, including health and social services and access to legal and labour protections.
  - **Repeal PCEPA** to prevent the harms it causes to sex workers, putting them at risk of violence, exploitation and criminalization.
  - **Repeal the IRPR ban on sex work** to prevent the harms caused to im/migrant sex workers, such as detention and deportation.
- **Stop the conflation** of sex work and human trafficking and/or child sexual exploitation.

For a more in-depth look at PCEPA, see SWAN's [backgrounder](#) & [analysis](#) of its provisions, impacts, and SWAN's recommendations for improvement.

To better understand the specific risks to im/migrant sex workers, see SWAN's [backgrounder](#), [analysis](#), and [Charter violation](#) resources on the IRPR immigration ban on sex work.

For more resources for journalists, visit [ResponsibleReporting.ca](https://www.responsiblereporting.ca)



Women and Gender  
Equality Canada

Femmes et Égalité  
des genres Canada

Canada