

Legislative Frameworks for Sex Work

What does sex work actually look like under our current laws?
What might it look like under other frameworks...?

Canada currently has a “partial decriminalization” model, also called the Nordic model.

This model is meant to decrease the “demand” side of sex work without criminalizing those on the “supply” side.

In reality, partial decriminalization still criminalizes sex work overall and would be better described as “**partial criminalization**” or “**asymmetrical criminalization**,” putting sex workers at risk of exploitation, surveillance, harassment, and—in the case of migrant sex workers—detention and deportation.

In this document, Canada’s current model will be referred to as Partial De/Criminalization.

The below table outlines the various components of **four different legislative frameworks for sex work**.

The Partial De/Criminalization column will be presented with both the **theoretical, best-practice outcome** of the model and the **true outcome within our Canadian context**—i.e., how this model actually functions in practice here, rather than how it should function.

	CRIMINALIZATION	PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*	LEGALIZATION	DECRIMINALIZATION
WHO IS CRIMINALIZED UNDER EACH FRAMEWORK?	<p>Buyers, sellers, and third parties (*third parties can be other sex workers, as well)</p> <p>Anyone involved in the sex industry can be criminalized</p>	<p><u>In theory:</u> Buyers and possibly third parties (*third parties can be other sex workers, as well)</p> <p><u>In practice in Canada:</u> Buyers and possibly sellers and third parties (including other sex workers)</p> <p>Those purchasing sexual services are criminalized, and possibly also anyone who facilitates sex work (e.g., a receptionist), works with/for sex workers (e.g., other sex workers or a hired bodyguard), or shares in the proceeds from sex worker (e.g., a salon owner)</p>	<p>Unlicensed sellers and possibly third parties (*third parties can be other sex workers, as well)</p> <p>Anyone doing sex work who is not legally licensed by the government can be criminalized, and possibly also anyone who facilitates sex work (e.g., a receptionist), works with/for sex workers (e.g., other sex workers or a hired bodyguard), or shares proceeds from sex workers (e.g., a salon owner)</p>	<p>No one is criminalized for any selling, buying, or supporting/facilitating sex work</p>

CRIMINALIZATION

PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*

LEGALIZATION

DECRIMINALIZATION

IS SELLING SEX ITSELF CRIMINALIZED?

Yes—Everyone involved may be criminalized

In theory: No—Those selling their own sexual services will not be criminalized

In practice in Canada: Sex workers themselves still face risks of criminalization during the course of their work

No—Those selling their own sexual services (provided they are licensed!) will not be criminalized

People facilitating, working with/for, or sharing proceeds with sex workers may still be criminalized

No—While the industry may be regulated by the government, no one involved in the sex industry will be criminalized for selling, buying, or supporting/facilitating sex work

WHAT IS THE LEVEL OF RISK OF VIOLENCE FOR SEX WORKERS?

High risk—Sex workers must operate underground, making them vulnerable to violence and unable to call 911 or seek legal recourse

In theory: Low risk

In practice in Canada: High risk—Because so many aspects of sex work are still criminalized under this model, sex workers are still likely to operate underground and are hesitant or unable to call 911 or seek legal recourse

High risk, for unlicensed sex workers

Unlicensed sex workers face all the same barriers as sex workers under the criminalization and partial decriminalization models. Legalizing sex work creates a two-tier system of legal and “illegal” sex workers

Low risk—All sex workers can feel secure to work in safe environments and report issues when needed

CRIMINALIZATION

PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*

LEGALIZATION

DECRIMINALIZATION

WHAT IS THE
LEVEL OF RISK
OF
EXPLOITATION
FOR SEX
WORKERS?

High risk—Sex workers must operate underground, making them vulnerable to exploitation and unable to call 911 or seek legal recourse

In theory: Low risk

In practice in Canada: High risk—Because so many aspects of sex work are still criminalized under this model, sex workers are still likely to operate underground and are hesitant or unable to call 911 or seek legal recourse

High risk, for unlicensed sex workers—

Unlicensed sex workers face all the same barriers as sex workers under the criminalization and partial decriminalization models. Legalizing sex work creates a two-tier system of legal and “illegal” sex workers

Low risk—All sex workers can feel secure to work in safe environments and report exploitation when needed

WHAT IS THE
LEVEL OF RISK
OF
SURVEILLANCE
FOR SEX
WORKERS?

High risk—There will be an incentive for law enforcement to look for and monitor sex work activity

In theory: Low risk

In practice in Canada: High risk—There will be an incentive for law enforcement to look for and monitor sex work activity

High risk—There will be an incentive for law enforcement to look for and monitor sex work activity that doesn't comply with the parameters of legalization

Low risk—There will be no added incentive for law enforcement to surveil sex workers during the course of routine police work

CRIMINALIZATION

PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*

LEGALIZATION

DECRIMINALIZATION

CAN SEX WORKERS ACCESS HEALTHCARE SERVICES?

It's risky—It is risky to access healthcare as a sex worker due to the possibility of surveillance and criminalization

In theory: Yes

In practice in Canada: It's risky—It is risky to access healthcare as a sex worker due to the possibility of surveillance and criminalization

It's risky for some, but not others—

Licensed sex workers can access healthcare, but it is risky for unlicensed sex workers due to the possibility of surveillance and criminalization

Yes—Healthcare is accessible for everyone

WHAT IS THE RELATIONSHIP BETWEEN SEX WORKERS AND LAW ENFORCEMENT?

High risk—There is a high risk of surveillance, abuse, exploitation and violence for sex workers at the hands of law enforcement

Any recourse for sex workers comes with the risk of themselves being criminalized

In theory: Low risk

In practice in Canada: High risk—There is a high risk of surveillance, abuse, exploitation and violence for sex workers at the hands of law enforcement

Any recourse for sex workers comes with the risk of themselves being criminalized

High risk for some—

There is a risk of surveillance, abuse, exploitation, and violence for unlicensed sex workers at the hands of law enforcement

Any recourse for unlicensed sex workers comes with the risk of themselves being criminalized

Low risk—Sex workers can access law enforcement when a crime is committed against them but there is no need for police surveillance of sex workers

All sex workers have recourse if they are mistreated by law enforcement

CRIMINALIZATION

PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*

LEGALIZATION

DECRIMINALIZATION

WHAT IS THE RELATIONSHIP BETWEEN SEX WORKERS AND CLIENTS?

High risk—Sex workers are at risk of abuse, exploitation, and violence by clients

Any recourse for sex workers comes with risk of themselves being criminalized

In theory: Low risk

In practice in Canada: High risk—Sex workers are at risk of abuse, exploitation, and violence by clients

Any recourse for sex workers comes with risk of themselves being criminalized

High risk for some—

Unlicensed sex workers are still at risk of abuse, exploitation, and violence by clients

Any recourse for unlicensed sex workers comes with risk of themselves being criminalized

Low risk—Predators know that they cannot get away with impunity, meaning sex workers have more control and can report violence when it occurs

WHAT IS THE RELATIONSHIP BETWEEN SEX WORKERS AND THIRD PARTIES?

High risk—Sex workers are at risk of abuse, exploitation, and violence by third parties

Any recourse for sex workers comes with risk of themselves being criminalized

In theory: Low risk

In practice in Canada: High risk—Sex workers are at risk of abuse, exploitation, and violence by third parties

Any recourse for sex workers comes with risk of themselves being criminalized

High risk for some—

Unlicensed sex workers are still at risk of abuse, exploitation, and violence by third parties

Any recourse for unlicensed sex workers comes with risk of themselves being criminalized

Low risk—Sex workers have more control and therefore less chance of exploitation by third parties and can report problems if they occur

	CRIMINALIZATION	PARTIAL DE/CRIMINALIZATION *OUR CURRENT MODEL*	LEGALIZATION	DECRIMINALIZATION
HOW MUCH STIGMA DOES SEX WORK CARRY?	A very high amount	<u>In theory and in practice:</u> A high amount	Some, but possibly less	Some, but less as it becomes more accepted in society

Please note: Not everyone's primary identity centers around their job. Not all who engage in sex work will self-ID as a sex worker, despite the broad language that is sometimes used to refer to this community.

For more resources for journalists, visit ResponsibleReporting.ca



Women and Gender
Equality Canada

Femmes et Égalité
des genres Canada

Canada