

Protection of Communities and Exploited Persons Act (PCEPA)

ANALYSIS & RECOMMENDATIONS

The Protection of Communities and Exploited Persons Act (PCEPA) criminalizes many activities related to sex work, putting sex workers at risk of violence, exploitation, and other crimes and human rights violations.

Because PCEPA views sex work as exploitation, it aims to reduce demand for sexual services and ‘protect’ women and girls. However, the provisions within PCEPA make sex work more dangerous and do not reduce demand.¹

S. 286.1 - THE PURCHASING OFFENCE

PCEPA purports to keep sex workers safe by decriminalizing the selling of sexual services while still targeting ‘demand’ (asymmetrical criminalization or [partial de/criminalization](#)). However, criminalizing half of the transaction effectively drives the whole industry underground, which continues to make sex workers unsafe.² When sex workers have to work underground, they are more vulnerable to violence and exploitation as well as poor working conditions.

S. 286.4 - THE ADVERTISING OFFENCE & MATERIAL BENEFIT OFFENCE

The intention behind the advertising and material benefit offences is to prevent an exploitative third party (i.e., pimps or traffickers) from controlling the sale of another’s sexual services and benefiting from the proceeds. In effect, these provisions prevent sex workers from being able to work together or safely hire receptionists, administrative assistants, bookkeepers, security personnel, drivers, or any other service provider that may make it easier, or safer, for them to work. The material benefit offence may even criminalize a roommate, spouse, or dependent who lives with a sex worker, complicating their day-to-day relationships.

Human trafficking (as well as assault, forcible confinement, uttering threats, etc.) is already a Criminal Code offence in Canada and it makes little sense to needlessly duplicate potential aspects of trafficking/exploitation in legislation for sex workers specifically. Additionally, extending basic labour code provisions to sex work would help prevent financial abuse of sex workers and give them recourse for mistreatment or exploitation.

¹ Centre For Gender & Sexual Health Equity. (2019). [Harms of End-Demand Criminalization: Impact of Canada’s PCEPA Laws on Sex Workers’ Safety, Health & Human Rights](#).

² Ibid.

S. 286.3 - THE PROCURING OFFENCE

Prohibiting procurement may also limit a sex worker's ability to have another person help manage their schedule and make appointments with clients. This provision also makes it difficult for sex workers to work together or hire others to support their work as many things may be viewed subjectively as aiding, abetting, influencing, or facilitating someone to do sex work.^{3,4} Importantly, this provision implies a direct link between sex work and human trafficking, conflating the two. Human trafficking involves coercion (force or threats) and exploitation; sex work is the voluntary exchange of sexual services for money or goods. The conflation of sex work with human trafficking is a pervasive problem in media and social service narratives and consistently contributes to police action and policy decisions that harm sex workers.

Subsection 213(1.1) - THE COMMUNICATING OFFENCE

By criminalizing communication for the purpose of sex work in certain “poorly defined” public places, “PCEPA diverges from asymmetrical criminalization by continuing to target street-based sex workers for communicating with clients”.⁵ Prohibiting communication for the purposes of offering or providing sexual services puts sex workers at risk because they can no longer safely negotiate the terms of their service with a client, cannot properly screen their clients, and cannot openly communicate about known ‘bad dates’ (an abusive or otherwise dangerous client) with fellow sex workers. Prohibiting communication also encourages sex workers to quickly move unvetted clients to a private space, increasing their risk.

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.
- Stop the **conflation of sex work and human trafficking** and/or child sexual exploitation.
- **Repeal PCEPA** to prevent the harms it causes to sex workers, putting them at risk of violence and exploitation, as well as at risk of criminalization, arrest, detention, and deportation.

For an overview of PCEPA, see SWAN's [backgrounder](#) on the provisions.

For more resources for journalists, visit [ResponsibleReporting.ca](#)

³ Canadian Alliance for Sex Work Law Reform. (2015). [Criminalizing Third Parties in the Sex Industry: Impacts and Consequences](#).

⁴ Pivot Legal Society. (2016). [Evaluating Canada's Sex Works Laws: The Case For Repeal](#).

⁵ Ibid, 11.