



Decriminalization, Exit Strategies, and the Social Determinants of Health:

A three-pronged approach to
health, safety and dignity for
sex workers

2019 Position Statement
Canadian Association of Social Workers



Founded in 1926, the Canadian Association of Social Workers (CASW) is the national association voice for the social work profession.

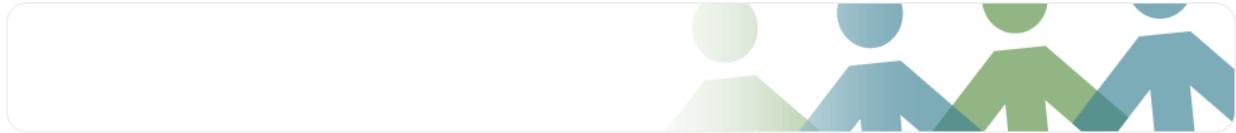
CASW has adopted a pro-active approach to issues pertinent to social policy/social work. It produces and distributes timely information for its members, and special projects are initiated and sponsored.

With its concern for social justice and its continued role in social advocacy, CASW is recognized and called upon both nationally and internationally for its social policy expertise.

The mission of CASW is to promote the profession of social work in Canada and advance social justice. CASW is active in the International Federation of Social Workers (IFSW).



Ce document est disponible en français



Background

In 2013, the Supreme Court of Canada struck down existing laws governing sex work in Canada as unconstitutional, giving the federal government a short window to develop new legislation. In 2014, the government of the day introduced the new law, *the Protection of Communities and Exploited Persons Act (PCEPA)*, making it illegal to purchase sexual services, but not to sell them.

This new law was supposed to help end demand and create a healthier and better life for sex workers – but Canadian and international evidence, the voices of sex workers themselves, and allied advocacy groups report the same outcome: the opposite is taking place.

In this paper, the Canadian Association of Social Workers (CASW) proposes changes to the Criminal Code of Canada which would decriminalize consensual adult sex work as part of a three-pronged approach. It is important to note, however, that this statement applies only to the selling of sex between two consenting adults, and that CASW vehemently condemns practices involving minors or trafficked persons.

For decriminalization to be effective in creating a safer, healthier Canada – and reducing involuntary, underage, and trafficked persons becoming involved in the sale of sex – it must, from CASW's perspective, be accompanied by 1) robust funding and services to facilitate transitions for those who wish to leave sex work and 2) deeper investments in the social determinants of health.

Finally, this position statement is practical rather than philosophical: it is not relevant whether CASW has a position on sex work itself. Though the majority of sex workers report negative experiences, a strong component of voices also report experiences of empowerment. This document is not concerned with whether some sex workers' experiences of empowerment stem from emancipation, or from invisible, hegemonic patriarchy: there are many stories of lived experience on both sides. Rather, this position statement is concerned with what *policy and legislative options will provide the most safety, dignity, and positive social and health outcomes for Canadians*. This approach is also aligned with the Canadian Association of Social Worker's Code of Ethics, which seeks to balance the protection of individuals and the principle of doing no harm, with autonomy and self-determination.



Recommendations

1) Decriminalize consensual sex work involving adults

The Canadian Alliance for Sex Work Law Reform, comprised of 28 organizations representing advocates and those with lived and ongoing experience of sex work involvement, notes that “decriminalization is a first and necessary step to address the rights and safety of people who sell or trade sex.”ⁱ Indeed, there has been much academic research identifying that “the criminalization of sex workers, their clients and third parties as a key contributor to violence experienced by sex workers, among other repercussions including stigma and discrimination.”ⁱⁱ

At this time, Amnesty International, the World Health Organization, and the United Nations are calling for the full decriminalization of sex work as well. From a health perspective, the Canadian Public Health Association notes that “[s]tudies show that decriminalization is associated with higher condom use, lower STI prevalence, and increased access to HIV and sexual health services.”ⁱⁱⁱ

Research has found that decriminalization reduces sexual violence towards sex workers as well: for instance, a 2017 study of a six year period of decriminalization in Rhode Island found that sexual violence fell by 30%.^{iv} In addition, this same study found that the overall incidence of rape – in the general population, not just among sex workers – fell by 31%. Determining exact metrics of correlation is a complex undertaking, but researchers have suggested that societal attitudes change and misogynistic behaviours are reduced when sex work is decriminalized, thus reducing the stigma associated with sex workers – who are most often women and LGBTQ2I individuals. Indigenous women^v and queer^{vi} and trans people are even more likely than the general population to experience sexual violence: as such, the increase in safety offered by decriminalization would directly serve these populations.

Currently, Canada’s law is most similar to that of the *Nordic Model*, in which the sale of sex is technically legal^{vii}, however the purchase is criminalized. Researchers and sex workers note that this criminalization forces sex work underground – into more unsafe environments. However, there are many more, multifaceted arguments for decriminalization.

These arguments were perhaps most succinctly described in the Canadian context in an open letter to the federal government written by 300 researchers in 2014. They elaborate the following:

1. Criminalization of any aspect of sex work undermines access to critical safety, health and legal protections
2. Enforcement prohibiting communication in public spaces between sex workers and their clients directly elevates risks for violence, abuse and other health and social harms



3. Criminalization of any aspect of sex work hinders sex worker's ability to establish safer workspaces, to work collectively, and engage third parties who can increase their safety
4. Criminalizing the purchasing of sex does not reduce or eliminate prostitution
5. Criminalizing any aspect of sex work undermines efforts to address human trafficking^{viii}

The most well-known international example of decriminalization is that of New Zealand, where sex work was decriminalized in 2003. In order to respond to concerns from advocates and citizens that this change would 1) increased human trafficking and 2) overall increased in the number of sex workers, New Zealand carefully tracked this data and published a report in 2008. This report found no incidents of human trafficking, reduced overall demand for sex work, and no increase in the total number of sex workers.^{ix}

Though sex work is completely criminalized in many jurisdictions, illegal sex work and human trafficking still take place, often at very high rates. CASW firmly recommends decriminalization because it will greatly increase the safety, dignity, and health of sex workers regardless of the circumstances under which they entered the trade.

As compelling as the research around decriminalization may be, it is CASW's position that the legality or illegality of sex work is not an effective tool, on its own, for addressing human trafficking or the comprehensive well-being of sex workers: robustly addressing the social determinants of health to tackle gender inequality, violence, poverty, racism, social isolation, housing, child care, and more, is the way to *prevent* and protect from human trafficking of adults and underage persons, as well as provide protective factors for sex workers who wish to exit the trade. **This point is further elaborated under Recommendation 3.** It is important to note that those found to be coercing, trafficking, or engaged in any kind of sexual activity with a minor should remain criminalized in CASW's view.

Additionally, regardless of how an individual entered the sex trade, they should have safe, accessible options to help them transition out of sex work if they so choose.

2) Fund and Expand Exit Strategies for Sex Workers who wish to leave sex work through a new cross-departmental federal office

There are many excellent community level organizations already undertaking this work with exciting exit strategy programs across Canada. One such example is *Stepping Stone*, a charitable organization in Nova Scotia that serves current and former sex workers, people at risk of entering the sex trade, and trafficked persons through a harm reduction model, providing street outreach, employability and skills coaching, and transition support. Organizations like these exist throughout Canada, and are usually underfunded, understaffed, and overworked:



we must fix this, and CASW believes the federal government can play a strong leadership and fiduciary role.

One example of federal leadership in this space is *Exit Doors Here: Helping Sex Workers Leave Prostitution*^x, a pilot program funded by *Public Safety Canada* taking place at Elizabeth Fry Toronto. Outcomes are currently being evaluated, and the report is forthcoming. Also ongoing are programs funded through the *Measures to Address Prostitution Initiative* delivered by the Department of Justice Victim's Fund.

These initiatives, while commendable, are simply not enough. Additionally, this funding opportunity terminates in 2020, and it is unclear whether there are concrete plans to renew, improve or revitalize funding intended for exit strategies.

In federal Budget 2018, funding was announced to establish a National Human Trafficking Hotline, and Budget 2019 promised to “develop a new whole-of government strategy to combat human trafficking”^{xi} but any mention of sex work is absent, as well as any concrete next steps.

As a concrete next step, CASW recommends that the federal government create a new, singular, cross-departmental and cross-agency office to co-ordinate all activity related to prevention of any form of non-voluntary or coerced sex work as well as exist strategies for sex workers comprised of officials from Status of Women Canada, Public Safety Canada, and Indigenous Services Canada. These bodies are best positioned to use a gender based analytical lens to promote equity, address the complex intersection of agency and victimization often experienced by sex workers, promote economic opportunities for all those who identify as women and queer and trans people, and ensure Indigenous people are properly supported in any future strategies. Including Status of Women and Indigenous Services Canada as key players in this new Office would play an important role in shifting perspectives away from sex work as primarily a public safety issue, but a gendered and racialized one as well.

This Office should immediately strike a federal-provincial/territorial Secretariat in order to determine where gaps exist, and where future funding would be best allocated to maximize impact. This would also help streamline practices across Canada to help ensure equity, and ensure that criteria for receiving funding are established with the help of voices from every part of Canada.

In keeping with social work values and ethics, it is CASW's position that those best positioned to serve a population or a community are those embedded in and/or a part of that community. Efforts should not be made to duplicate existing programs that are working well, but rather governmental funding should be made available through the work of this new Office to strengthen existing programs while governments conduct research to determine strategies to address underserved locations and populations.



CASW acknowledges the difficulty of formal collaboration between federal government offices and agencies, and further between federal and provincial/territorial counterparts. However, sex work is a complex issue involving many cross agency and cross interest concerns. That said, precedents do exist in terms of the creation of such a Secretariat: for example, the Provincial Territorial Immigration Secretariat is made up of permanent as well as emergent working groups and could certainly serve as a prototype for the initiative CASW proposes.

Finally, the creation of such an office would enshrine sex work as an area of attention for the federal government, help secure funding and attention in future federal budgets, and ensure progress does not stagnate. This initiative's initial funding should be no less than \$25 million; this exceeds the previous government's investment in exit strategy funding which was set at \$20 million for a set of time-limited projects.

That said, the best solution for sex workers who wish to leave the trade, or who never wished to be there in the first place whether through direct or societal/fiscal coercion, is *prevention*.

3) Investing in the social determinants of health that have a particular impact on Canadians made vulnerable to entering into survival sex work or becoming trafficked

At the outset, it is important to acknowledge that the very breadth of considerations and recommendations proposed here are practical, but are also meant to have an overwhelming effect: this is because the well-being of sex workers, and the prevention of survival or coerced sex work, is directly linked to the well-being of Canadians more generally. It is also important to acknowledge that mental illness and substance use issues can also be factors leading to sex work involvement^{xii, xiii}: mental health and substance misuse recovery are also best facilitated by a society with robust social determinants of health. With these factors considered, a holistic approach is needed, including:

a) A basic income for all Canadians

In 2017, CASW recommended the creation of a uBIG: a basic income for all Canadians that would move from the concept of a 'safety net' to that of a stable foundation on which all Canadians can stand^{xiv}. This would help ensure no Canadian lives in poverty, making entry into survival sex work less likely – income is a strong protective factor.

b) Affordable, accessible housing

The federal government should heed the recommendations of the Canadian Housing and Renewal Association and Women's Shelters Canada around funding and access to affordable housing, and transitional and emergency housing. No Canadian should enter



sex work due to a lack of housing.

c) Affordable, accessible childcare

Canada needs a nation-wide strategy for quality, affordable childcare – monthly benefits and tax programs are not enough. No Canadian should enter sex work due to a lack of the ability to afford childcare.

d) Highest standards and best practices for youth aging out of care

The Minister of Children, Families, and Social Development should regularly meet with his/her provincial and territorial counterparts to discuss best practices in the foster care system, especially as this pertains to aging out of care, and attempt to streamline children and youth's experience across Canada. Aging out of care is a particularly vulnerable time for youth, and the link between the foster care system and human trafficking cannot be ignored. Anecdotally, many front-line social workers refer to foster care systems as 'pipelines' into human trafficking, due to the highly vulnerable nature of youth at this time. Dawn Lavell-Harvard, from the Native Women's Association of Canada, calls the link between foster care and human trafficking "a direct connection."^{xv}

Additionally, CASW's 2018 research on social workers in child welfare roles in Canada found that a large majority of social workers were heavily overworked, with unmanageable caseloads preventing the highest standard of individualized care. CASW recommends a national child welfare caseload study be undertaken immediately to ascertain the appropriate case size to best serve children and youth – and keep them safe from vulnerabilities.^{xvi}

e) CASW echoes the Canadian Public Health Association in recommending the federal government Strengthen efforts to prevent and end domestic and international human trafficking

"Violence and coercion are the modus operandi of human traffickers, which annually affect over 1 million people internationally and provide a supply of sex workers. These activities are illegal and must be stopped. Such efforts need to be designed in a manner that their implementation does not unintentionally and negatively affect those who freely choose sex work as an occupation."^{xvii}

f) Programs and services designed by Indigenous communities and organizations for Indigenous services users

The 2014 Report on the Special Committee on Violence against Missing and Murdered Aboriginal Women made many strong recommendations to address the overrepresentation of First Nations, Unuit and Metis women in the sex trade – as well as



the disproportionate violence they experience. We recommend the federal government publish an update to this paper, evaluating which recommendations have been implemented and to what degree of success. This should inform future investments directly in indigenous communities to facilitate new or strengthened programming that meets their needs.

Conclusion

In this position statement, CASW recommends a three-pronged approach to increasing sex worker's safety, health, and well-being: decriminalization of consensual adult sex work, a new office to fund and manage programming around exit strategies for sex workers, and recommendations to robustly strengthen the social determinants of health.

Though this document pertains to consensual sex work between adults, implementing all three of these recommendations simultaneously will also undeniably improve situations for those who enter into survival sex work, those who are coerced, and those who are trafficked.

ⁱ "Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada." Canadian Alliance for Sex Work Law Reform, March 2017. Accessed July 2019, <http://sexworklawreform.com/wp-content/uploads/2017/05/Executive-Summary.pdf>

ⁱⁱ Ibid

ⁱⁱⁱ "Sex Work in Canada: The Public Health Perspective." Canadian Public Health Association, December 2014. Accessed July 2019, https://cpha.ca/sites/default/files/assets/policy/sex-work_e.pdf

^{iv} "Decriminalizing Indoor Prostitution: Implications for Sexual Violence and Public Health." Scott Cunningham and Manisha Shaw, The Review of Economic Studies, December 2017. Accessed July 2019, <https://academic.oup.com/restud/article-abstract/85/3/1683/4756165#118101669>

^v "Violent victimization of Aboriginal women in the Canadian provinces, 2009." Government of Canada, accessed July 2019, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2011001/article/11439-eng.htm>

^{vi} "Violent victimization of lesbians, gays and bisexuals in Canada, 2014." Government of Canada, accessed July 2019, <https://www150.statcan.gc.ca/n1/pub/85-002-x/2018001/article/54923-eng.htm>

^{vii} Though the actual sale of sex is legal, it is illegal to live on the material benefits of sex work (which, in some cases, prevents sex workers from working together or with a third party for safety and protection), and also makes it illegal to solicit in public areas.

"Prostitution Criminal Law Reform: Bill C-36, the Protection of Communities and Exploited Persons Act." Government of Canada, accessed July 2019, https://www.justice.gc.ca/eng/rp-pr/other-autre/c36fs_fi/

^{viii} "Open letter: 300 researchers call for decriminalization of sex work in Canada." Action Canada for Sexual Health and Rights, accessed July 2019, <https://www.actioncanadashr.org/news/2014-03-26-open-letter-300-researchers-call-decriminalization-sex-work-canada> (2014)



^{ix} "Report of the Prostitution Law Review Committee on the Operation of the Prostitution Reform Act." New Zealand Government, accessed July 2019, <http://prostitutescollective.net/wp-content/uploads/2016/10/report-of-the-nz-prostitution-law-committee-2008.pdf>

^x "Program Snapshot: Exit Doors Here: Helping Sex Workers Leave Prostitution." Government of Canada, accessed July 2019, <https://www.publicsafety.gc.ca/cnt/cntrng-crm/crm-prvntn/nvntr/dtls-en.aspx?i=10184>

^{xi} "Investing in the middle class, Budget 2019." Government of Canada, accessed July 2019, <https://www.budget.gc.ca/2019/docs/plan/budget-2019-en.pdf>

^{xii} "Burden and correlates of mental health diagnoses among sex workers in an urban setting." Nitasha Puri, Kate Shannon, Paul Nguyen, and Shira M. Goldenberg, BMC Women's Health, US National Library of Medicine, accessed July 2019, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5735638/>

^{xiii} "Sex Work in Canada: The Public Health Perspective." Canadian Public Health Association, accessed July 2019, https://www.cpha.ca/sites/default/files/assets/policy/sex-work_e.pdf

^{xiv} "From Safety Net to Stable Foundation: CASW Recommends a Universal Basic Income." Canadian Association of Social Workers, accessed July 2019, <https://www.casw-acts.ca/en/safety-net-stable-foundation-casw-recommends-universal-basic-income>

^{xv} "Missing and Murdered: The Trafficked – Part Five: The Foster Care Connection." Globe and Mail, accessed July 2019, <https://www.theglobeandmail.com/news/national/the-trafficked-sexual-exploitation-is-costing-canadian-women-their-lives/article28700849/> .

^{xvi} "Canadian Association of Social Workers Releases Major Research on Social Workers and Child Welfare." Canadian Association of Social Workers, accessed July 2019, <https://www.casw-acts.ca/en/canadian-association-social-workers-releases-major-research-social-workers-and-child-welfare>

^{xvii} "Sex Work in Canada: The Public Health Perspective." Canadian Public Health Association, accessed July 2019, https://www.cpha.ca/sites/default/files/assets/policy/sex-work_e.pdf