

Canadian Labour Congress

Submission to the UN Special Rapporteur on Violence Against Women and Girls

January 31, 2024



Introduction

The Canadian Labour Congress (CLC) is Canada's largest labour organization, representing 3 million workers. We are pleased to make this submission regarding the need for a full decriminalization of sex work as a first step to eliminating labour exploitation, harassment and violence against sex workers.¹

The CLC regularly conducts research and provides submissions to governments and international bodies regarding harassment, violence and discrimination at work. In 2023, we celebrated Canada's ratification of ILO C-190 as a critical step to eliminating harassment and violence within the world of work, which includes the informal economy.

For decades, sex worker-led organizations, researchers and allies have identified full decriminalization as the first step to eliminating harassment and violence against sex workers.

The CLC is committed to protecting the rights unions have secured and winning new rights for all workers. Therefore, we echo the demands of sex workers for (1) full decriminalization and (2) adoption of a robust human rights-based labour approach to sex work.²

Sex Work is Work

Sex work, the consensual exchange of sexual services for money, goods or services, is work done by diverse range of individuals to meet their financial needs.³ As with any other industry, there is a broad range of experiences, structures and systems of oppression that converge to render sex work a desirable, viable and/or necessary form of income generation.⁴ Further, like other industries, robust and comprehensive worker protections are an essential tool to eliminate labour exploitation, as noted by the Global Network of Sex Work Projects:

Exploitation and unsafe and unhealthy working conditions exist in many labour sectors. Work does not become something other than work in the presence of these conditions. Even when performed under exploitative, unsafe, or unhealthy conditions, sex work is still work...recognition that sex work is work is the starting point for addressing these conditions, to be able to organize and advocate for improved work environments for sex workers.⁵

Criminalization Perpetuates Individual and Systemic Discrimination and Violence Against Sex Workers

In 2023, the United Nations Working Group on the Elimination of Violence Against Women and Girls (the "UN Working Group") concluded that in jurisdictions where sex workers are criminalized, they experience wide-ranging rights violations, including arbitrary arrest, police abuse, failure to be protected from violence by private individuals and barriers to accessing healthcare.⁶

¹ The CLC is grateful for the assistance provided by the [Canadian Alliance for Sex Work Law Reform](#) (CASWLR), a coalition of 20+ sex workers rights groups in Canada to develop this submission. We urge the UN Special Rapporteur on Violence Against Women and Girls to closely review the CASWLR's detailed briefs on sex work law reform in Canada, and other resources developed by and in collaboration with sex workers, some of which are cited in this submission.

² CASWLR, [Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada](#) (March 2017) ("Safety, Dignity, Equality"), see also, Global Network of Sex Work Projects, [Policy Brief: Sex Work as Work](#) (2017) ("Sex Work as Work").

³ [Safety, Dignity, Equality](#) at 31-2.

⁴ Dr. Cecilia Benoit and Dr. Andrea Mellor, [A Brief to the Standing Committee on Justice and Human Rights House of Commons: Review of the Protection of Communities and Exploited Persons Act](#) (Canadian Institute for Substance Use Research: February 2022) at 2-3.

⁵ [Sex Work as Work](#) at 2.

⁶ UNHRC Working Group on discrimination against women and girls, 2023, 39th Mtg, UN Doc A/HRC/WG.11/39/1, [Eliminating discrimination against sex workers and securing their human rights](#) at 5 ("Eliminating discrimination against sex workers and securing their human rights").

Notably, the UN Working Group also concluded that all forms of sex work criminalization perpetuate systemic harm against sex workers: “[b]y giving the police powers to directly or indirectly target sex workers, criminalization models facilitate systemic violence and undermine sex workers’ health and safety.”⁷ Indeed, evidence from Canada supports the Working Group’s conclusions.

Canada’s Approach Creates and Worsens Occupational Hazards for Sex Workers

Canada’s *Protection of Communities and Exploited Persons Act (PCEPA)* is based on the ‘end-demand’ (or Nordic) regime of sex work criminalization.⁸ The Nordic model – as it was implemented in Canada – makes sex work illegal for the first time, criminalizing purchasing sexual services, selling sexual services in public, advertising, and third parties who procure or materially benefit from the purchase of sexual services. Consequently, this regime isolates sex workers to discourage police surveillance, harassment and criminal investigation of themselves, their clients and third parties.⁹

Since the enactment of *PCEPA* sex workers, researchers and allies have identified numerous harms exacerbated by its criminal prohibitions, some of which are briefly summarized below.

Criminal Prohibition¹⁰

Criminalizing communicating for purposes of providing or purchasing sexual services in public

Criminalizing Materially Benefiting from Sexual Services

Criminalizing Advertising of Sexual Services

Associated Occupational Hazards¹¹

- Street-based sex workers are displaced to isolated, industrial zones to operate and have less time to screen their clients to ensure they are safe to provide services to.
- Two Spirit and trans outdoor sex workers report less opportunity for gender disclosure, thereby increasing the risk of transphobic violence and harassment against them.
- Sex workers are prohibited from using third parties that enhance their occupational safety by screening, communicating terms of service, and intervening in instances of harassment and violence.
- Sex workers face eviction if their landlord finds out they do sex work.
- Indoor sex workers are forced to use alternative advertising strategies such as soliciting outdoors, exposing them to a higher risk of violence, or using euphemistic language to advertise and communicate, increasing the risk of miscommunication, misunderstandings, aggression and violence.

⁷ *Ibid.*

⁸ Centre for Gender & Sexual Health Equity, [Harms of End-Demand Criminalization: Impact of Canada’s PCEPA Laws on Sex Workers’ Safety, Health and Human Rights](#) (2019) at 5 (“Harms of End-Demand Criminalization”).

⁹ CATIE, [Sex Work and the Law in Canada](#) (July 2022); see also, *Harms of End-Demand Criminalization* at 5.

¹⁰ See CASWLR, [Sex Work and Changes to the Criminal Code After Bill C-36: What does the Evidence Say?](#) (June 2015); and see other CASWLR info sheets [Criminalizing of the Purchase of Sex: Impacts and Consequences](#) (June 2015); [Criminalizing Advertising of Sexual Services: Impacts and Consequences](#) (June 2015); [Criminalizing Third Parties in the Sex Industry: Impacts and Consequences](#) (June 2015); and, [Migrant Sex Workers and Sex Work-Related Laws](#) (June 2015).

¹¹ *Ibid.*; see also: *Harms of End-Demand Criminalization* at 6-12, and Living in Community, [Submission to the Standing Committee on Justice and Human Rights](#) (February 2022).

Criminalization is a Barrier to Obtaining Workers' Rights

In addition to the harms created and exacerbated for sex workers, the Nordic regime (like all forms of sex work criminalization) bars sex workers from access to the legal protections and mechanisms (occupational health and safety mechanisms) that unions have fought for to ensure all workers have safe, dignified working conditions.¹²

While sex work is illegal, sex workers cannot:

Negotiate their work conditions: Individuals and entities who have an impact on working conditions have no incentive or legal duty to improve conditions because there is no legal recourse if they don't. **Therefore, workers cannot hold those parties legally accountable for unacceptable working conditions, exploitation and wage theft.**

Access protections under employment standards legislation: including minimum wage guarantees, maximum work hours, overtime pay, wage protection, leave from work (for illness, disability, family or otherwise), protection from reprisal for asserting employment rights and vacation time.

Access protections under occupational health and safety legislation: Fundamental OHS protections include the right to know, participate in, and refuse dangerous work. The right to know encompasses the right to be informed of foreseeable hazards in the workplace and be provided with the requisite information, training and supervision to protect their health and safety. The right to participate includes the right to participate in identifying and correcting job-related health and safety hazards. The right to refuse dangerous work consists of the right to refuse work that one believes is dangerous to oneself or another worker.

Access employment-specific human rights protections: this includes protection from discrimination based on enumerated grounds in employment. In addition, the right to equal treatment at every stage of employment, from applications to dismissal or layoffs.

Assert their employment, labour and human rights in the courts and relevant tribunals.

Easily find work outside of the sex industry: employment transitions are not unique to sex work. People enter and exit jobs and careers throughout their lives. However, sex workers are often forced to hide their employment as sex workers due to stigma and risk of criminalization. Unlike other workers, they cannot highlight transferable skills from their prior employment and may opt to leave gaps in their CVs and resumes.

Unionize and develop professional associations: The Triple-X Solidarity Association of BC, a labour-oriented sex worker organization, seeks to enable members to make decisions about how to improve their lives, fight discrimination against members, increase member pay, enhance job satisfaction and advocate for better jobs within the sex industry.¹³ They note that prohibitions on advertising and third-party material benefits make no explicit exception for workers to organize unions and professional associations:

Unions typically collect dues from their members; professional associations collect fees. Both groups routinely hire staff to perform the organization's business administration, including but not limited to: recruiting members, invoicing and collecting membership dues, training and professional development, and advertising and promoting the industry generally as well as the

¹² See *Safety, Dignity, Equality* at 28-68, *Sex Work as Work*, and, Triple-X Workers' Solidarity Association of B.C., [Stronger Together: Solidarity Organizing and Exploitation Prevention](#) (February 2022) ("Solidarity Organizing and Exploitation Prevention").

¹³ Triple-X Workers' Solidarity Association of B.C., [Purposes of Triple-X](#) (November 2012).

*benefits of membership. Arguably, these organizations by their nature would counsel and encourage members to provide their services.*¹⁴

ILO C-190 Necessitates Full Decriminalization

ILO C-190 requires each member state to collaborate with workers' organizations, employers and others to identify sectors in which there is an increased risk of harassment and violence and take appropriate measures to protect those workers.¹⁵

As concluded by the UN Working Group, full decriminalization "...holds the greatest promise to address systemic discrimination and violence and impunity for violations of sex workers' rights."¹⁶

To begin tackling harassment and violence against sex workers, they must be empowered to legally, politically and socially assert and defend their rights to fair and decent work conditions. The continued criminalization of sex work, in all forms, is a fundamental barrier to this reality. Accordingly, ILO C-190's mandate requires full sex work decriminalization.

Conclusion

As unions, we know that safe, dignified working conditions are secured through a combination of free association, collective bargaining, and protest, in addition to a strong social safety net and combatting systemic oppression and hate.

Canada's unions fought for and secured critical rights enjoyed by most workers today, and the CLC works in solidarity with all workers, including sex workers, in their struggle to secure better working conditions.

We look forward to collaborating with sex workers, allies, governments, international bodies and other stakeholders to achieve full decriminalization and the adoption of a human rights-based labour approach to sex work.

Importantly, we urge the UN Special Rapporteur on Violence against Women and Girls, governments, policymakers, and other stakeholders to directly involve sex workers in the development and implementation of policies, laws, and frameworks on sex work.

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¹⁴ *Solidarity Organizing and Exploitation Prevention* at 6-7, see also: Charlie Smith, "[B.C. sex workers' association says federal law kills membership drives](#)" (The Georgia Straight: 16 July 2020).

¹⁵ International Labour Organization, [C190 - Violence and Harassment Convention, 2019 \(No. 190\)](#), Article 8.

¹⁶ *Eliminating discrimination against sex workers and securing their human rights* at 10.