



Created in collaboration with Canadians for Choice and the Canadian Federation for Sexual Health (CFSH)

Issue at a Glance

20 DECEMBER 2013: Supreme Court of Canada (SCC) releases its decision in the Bedford v. Canada case regarding sex work. Strikes down elements of the Criminal Code[1] deeming them unconstitutional, as they put sex workers' health and lives at risk. The SCC gave the Government of Canada 1 year to come up with a new piece of legislation.

4 JUNE 2014: The Government tables a new piece of legislation (Bill C36) which aims to criminalize: the purchase of sexual services; communicating for the purpose of purchasing or selling sex; gaining material benefit from sex work; and advertising sexual services.

PRESENTLY: The bill is on its way to the House of Commons for its 3-reading.

It is anticipated that the bill will pass the vote the House of Commons, after which it will move to the Senate. It is therefore critical that pressure be put on both MPs and Senators to vote against the bill in the House of Commons and when it moves through the Senate in the coming weeks.

If passed, Bill C36 will effectively make sex work illegal in Canada for the first time. The laws surrounding sex work would be more restrictive than before the Bedford decision. This would have a significant negative impact on the sexual and reproductive health and rights (SRHR) of sex workers.

SRHR Perspective:

Impacts of the Criminalization of Sex Work

The [UN Special Rapporteur on the right to health](#) has condemned the criminalization, full or asymmetrical, of sex work as violating sex workers' right to health by creating barriers to their access to health services, which can lead to poor health outcomes.

HOW?

Sexual and reproductive health information and services

Criminalization, full or asymmetrical, increases the risk to sex workers' health and well-being by making it more difficult for them to access essential health services. These restrictive laws, and the stigma they contribute to, create barriers to HIV and STI testing, sexual health education, and appropriate treatment, care and support, commodities and services sex workers need to safeguard their health, including protection from the transmission of STIs and unwanted pregnancies.[2]

Criminalization creates fear among sex workers that they may face legal consequences or harassment if they carry safer sex supplies. For example, “sex workers — particularly those working on the street — have reported having their condoms confiscated by police, who may use those condoms as evidence of criminal activity. Heavy policing of the current laws, and violence committed against sex workers, have forced many to forgo condoms for fear of violence or arrest.”[3] Criminalization therefore reduces sex workers’ ability to negotiate safer sex with clients.[4]

Countries that have criminalized the purchase of sexual services, like Bill C36 proposes to do, report that police enforcement has negatively impacted the relationship between sex workers and any service providers (such as those providing condoms and harm reduction supplies) who could give the police an indication that they are engaging in sex work. This has made sex workers harder to reach with information and supports and has led to increased feelings of stigmatization felt by sex workers, especially in contexts where the state implements a ‘zero tolerance’ approach to sex work.

The [Global Commission on HIV and the Law](#) called for the repeal of laws that criminalize both the selling and the purchase of sexual services as they “invite police harassment and violence and push sex work underground, where it is harder to negotiate safer working conditions and consistent condom use.”

Freedom from Violence

Criminalization, full or asymmetrical, creates dangerous conditions for sex workers. It drives the practice underground where sex workers can become isolated and marginalized, where they have limited access to protection from violence, and where they may avoid reporting coercion, violence or abuse they may experience for fear of arrest and/or being identified as a sex worker by police.

Criminalizing the purchase of sex results in sex workers being displaced to isolated areas and having to take risks with new or less familiar clients as they have less time to screen them. Having to avoid police detection also prevents sex

workers from working in pairs and having the time to consult bad date lists which provide them with critical information to protect themselves.

Criminalization intensifies the social stigma of selling sex. According to the 2012 City of Oslo report: “The welfare services report [that] the debate about prostitution prior to and after the Act was changed has greatly influenced how the average person viewed women selling sex, meaning more women have experienced an increase in harassment from strangers in public spaces...there is also a tendency to point to a greater proportion of the population perceiving sex workers as criminals, even though they have not been criminalized.”[6]

Evidence shows that criminalizing the purchase of sex has the same negative impacts on sex workers’ safety that led to the Bedford challenge. Sex workers who cannot or do not want to exit the trade and whose income depends on it, continue to experience displacement, isolation, stigma, dangerous working conditions as well as an adversarial relationship with police services and health and social service providers.[7]

Bodily Autonomy & Women’s Agency

Criminalizing sex work is a violation of the rights to bodily autonomy and to have control over and decide freely upon all matters relating to one’s sexuality, and represents a desire to control women’s sexuality. For example, Bill C36 will impair sex workers’ ability to communicate with their clients about what services they consent to provide and which ones they don’t.

Bill C36 also conflates consensual sex work with trafficking, prohibiting the former. It is important to note that laws that directly target exploitation, violence, and non-consensual sexual activities will remain in place, including those that prohibit physical assault, sexual assault, threatening, harassment, murder, extortion, human trafficking, and child exploitation.

Bill C36 upholds the misconception that women are inherently vulnerable or in need of protection. Yet, it will create situations that put sex workers at increased risk of experiencing violence and other human rights violations. The bill denies

women of their agency, as rational decision-makers, as it is laden with the belief that no one would choose this profession.

The thinking behind Bill C36 is rooted in patriarchal gender norms that seek to dictate or control the circumstances when women can or cannot have sex or otherwise exercise reproductive self-determination.

SO WHAT?

Governments have an obligation to show due diligence in the protection of sex workers' human rights, including their rights to health and freedom from violence. Laws and policies must be evidence-based and address the intersecting and layered systems of oppression impacting sex workers' experiences. Bill C36 will create the conditions wherein sex workers will experience even further violations of these and other human rights.

WHAT CAN YOU DO?

Use content from this factsheet, and other sources[8] to take action against bill C36, by:

1. ***Writing an op-ed in your local paper***
 2. ***Raising awareness via social media***
 3. ***Writing to your MP or a Senator from your province.*** See full list of MPs and Senators, their email and postal addresses [here](#).
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[1] To include (1) communicating for the purposes of prostitution in a public space, (2) living off the avails of prostitution and (3) keeping a common bawdy house. For

more information regarding the decision, visit:

http://www.pivotlegal.org/canada_v_bedford_a_synopsis_of_the_supreme_court_of_canada_ruling

[2] Canadian Alliance for Sex Work Law Reform: factsheet “Why Decriminalization is Consistent with Public Health Goals”

<https://drive.google.com/folderview?id=0B3mqMOhRg5FeLWpPd21VYTIidTA&usp=sharing&tid=0B3mqMOhRg5FeNIY4ZkxFb2pLaWM>

[3] Canadian Alliance for Sex Work Law Reform: factsheet “Why Decriminalization is Consistent with Public Health Goals”

<https://drive.google.com/folderview?id=0B3mqMOhRg5FeLWpPd21VYTIidTA&usp=sharing&tid=0B3mqMOhRg5FeNIY4ZkxFb2pLaWM>

[4] Blankenship and Koester, supra note 5, p.550; Eriksson, supra note 25, para. 5; Stridbeck, supra note 11, p.12 citing Socialstyrelsen, Kännedom om Prostitution 2003 (Socialstyrelsen, 2004); Östergren, supra note 11; Campbell and Storr, supra note 14; Pro Sentret, supra note 2, p.57

[5] Helsedirektoratet, supra note 7, p.95 to 102.

[6] Bjørndahl, supra note 1, p.41

[7] <http://www.gshi.cfenet.ubc.ca/crimclients> and http://www.pivotlegal.org/my_work

[8] Visit: [Canadian Alliance for Sex Work Law Reform](#), [POWER](#) (Prostitutes of Ottawa/Gatineau Work, Educate and Resist), [PIVOT Legal Society](#), [Maggie's](#) (Toronto Sex Workers Action Network), and [Stella](#) (Making Space for Working Women).