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Sex Work Laws in Canada

A Position Paper

Executive Summary

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LEAF is a national, charitable, non-profit organization, founded in 1985. LEAF works to advance the substantive equality rights of all women, girls, and people who experience gender-based discrimination in Canada through litigation, law reform, and public education using the *Canadian Charter of Rights and Freedoms*.

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Executive Summary

This position paper outlines and discusses LEAF's position on Canada's sex work laws. Among other recommendations, it calls for full decriminalization of sex work done by adults¹ – an important first step to ensure that sex workers in Canada can live freely and exercise their agency, including exercising their right to autonomy, dignity, and equality.

In 2014, Parliament passed the *Protection of Communities and Exploited Persons Act (PCEPA)*, which established Canada's current sex work laws after the Supreme Court of Canada struck down the previous sex work laws in *Canada (Attorney General) v. Bedford* for violating sex workers' *Charter* rights. The legislative approach of *PCEPA* is based on what is commonly referred to as the Nordic model, which purports to criminalize purchasing sex work and others who benefit from the sex industry while immunizing sex workers from prosecution in certain circumstances. In the Canadian context, the implementation of *PCEPA* not only criminalized clients, but criminalized the sex work exchange for the first time in Canada.

In addition to criminal laws, Canada's immigration regulations prohibit temporary residents from engaging in all sex work, as well as working in any capacity at sex work-related establishments.

LEAF is concerned about the impact of criminalization on sex workers, many of whom are gendered and racialized and face other intersecting systemic barriers, such as racism, ableism, and poverty. In addition, Indigenous women are disproportionately represented in street sex work. Sex workers – especially street-based sex workers – often experience discrimination when trying to access healthcare, social services, housing, and financial services because of criminalization and social stigma against sex work. LEAF is also concerned about

¹ In this paper, "adult" means persons over the age of 18. LEAF recognizes that there are concerns about people 18 years of age and under in the sex industry. This is a complex and contested issue. At this time, LEAF is addressing the laws pertaining to persons over 18 years of age, and the issue of people 18 and under and criminal sex work laws is beyond the scope of this position paper.

the conflation of sex work and trafficking in the current legislation, which has been criticized by many for being harmful for both sex workers and for victims/survivors of trafficking.

LEAF's position on sex work is guided by six principles, which are informed by an evidence- and human rights-based approach to sex work:

1. Recognizing the harms of criminalization that threaten the safety of sex workers, especially for Black, Indigenous, and racialized sex workers;
2. Respecting sex workers' rights to autonomy, dignity, and equality;
3. Gender inclusion;
4. Recognizing the context informing decisions to engage in sex work and respecting the agency of sex workers;
5. Respecting the diversity of sex workers' experiences; and
6. Distinguishing sex work from trafficking.

Guided by these principles, LEAF makes six recommendations:

1. Repeal all sex work-specific provisions in the *Criminal Code* applicable to sex work done by adults;
2. Repeal immigration regulations that prohibit temporary residents and foreign nationals from working in the sex industry;
3. Ensure that social supports – including income supports – are accessible and barrier-free for sex workers;
4. With meaningful consultation and input from sex workers, commit to reviewing and reforming employment standards legislation to determine the best path forward in ensuring safe working conditions for sex workers;
5. Meaningfully consult with sex workers about laws and policies (including their implementation) that directly impact their lives; and
6. Improve access to gender-affirming healthcare and social services.

LEAF's future advocacy will continue to be grounded in the principles set out in this paper, as well as a commitment to being guided by evidence and a human rights framework. LEAF commits to further connecting with sex worker movements and organizations and adopting law reform recommendations and advocacy positions that are guided by and for sex workers, by evidence, and by human rights-based policy.