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WOMEN'S LEGAL
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JURIDIQUE POUR LES FEMMES

Sex Work Laws in Canada

A Position Paper

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Published by

Women’s Legal Education and Action Fund (LEAF)

180 Dundas Street West, Suite 1420

Toronto, Ontario, Canada M5G 1C7

www.leaf.ca

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*.

This paper was supported by the Government of Canada's Fund for Gender Equality, which is supported by a collaboration between Community Foundations of Canada and the Equality Fund, with support from the Government of Canada.

This paper was prepared by Rosel Kim and Pam Hrick. They would like to acknowledge:

- their fellow members of the Steering Committee for LEAF’s sex work advocacy position: Gillian Calder, Kat Owens, Jessica Prince, Katherine Rivington, Cee Strauss, and Adriel Weaver.
- Paula Ethans, Jane Hong, Lucia Kim, Candice Szaniszlo, Clémence Thabet, and Ariel Wyse for providing valuable research assistance.



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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.

I. Introduction

This position paper outlines and discusses LEAF's position on Canada's sex work laws. Canada currently criminalizes sex work by prohibiting the purchase of sexual services, as well as any third-party involvement in the sex industry. It is also a criminal offence to advertise sexual services and to communicate the sale of sexual services in a public place.

As one of the leading legal organizations focusing on gender equality in Canada, LEAF is concerned about the safety, autonomy, and well-being of sex workers, many of whom are women, trans, and/or non-binary. LEAF acknowledges that sex workers have been effectively organizing and advocating for their rights and safety, and seeks to amplify advocacy and policy positions advanced by many sex workers' organizations in Canada. LEAF is committed to respecting and upholding the agency and rights exercised by sex workers, including expanding the scope of decisions that sex workers can make in ways that work for them.

Grounded in principles of solidarity and support, and informed by an evidence- and human rights-based approach, LEAF's position on sex work makes two urgent recommendations to address the safety needs, autonomy, and rights of sex workers. First, LEAF calls on the federal government to fully decriminalize sex work by removing from Canada's *Criminal Code* all sex-work specific criminal offences applicable to adults.² Second, LEAF calls on the federal government to remove provisions in Canada's *Immigration and Refugee Protection Regulations* (IRPR) that prohibit temporary residents and foreign nationals from working in the sex industry. Full decriminalization of sex work is an important first step to ensure that sex workers in Canada can live freely and exercise their agency, including

² 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.

exercising their right to autonomy, dignity, and equality. Our recommendations also include reforms that address additional health, social, and legal rights of sex workers.

Historically, LEAF has not had a position on sex work and has abstained from intervening in litigation or making law reform submissions on sex work. Not having a position has prevented LEAF from engaging in meaningful action or dialogue with the sex work community. Further, LEAF’s strategic priority of amplifying the voices of those experiencing gender-based discrimination requires the organization to lead in difficult conversations, “including ones that challenge its own positions.”³ Developing a position on sex work is also an opportunity to act “with respect for intersectional and multi-sector knowledge” and to “foster collaborative, respectful relationships with new and existing partners”,⁴ which is necessary to ensure our feminism remains inclusive and representative.

In March 2021, LEAF struck a Steering Committee to oversee and guide the process of developing LEAF’s position on sex work. This committee consisted of representatives of LEAF’s Board of Directors, staff, and Law Program Committee. Over the course of a year, LEAF has engaged in internal discussions and consultation processes with stakeholder groups, including its member branches, the Board of Directors, and the Law Program Committee. LEAF’s position on sex work is also informed by extensive research on, among other things, the impact of Canada’s criminal laws on sex workers, different models of criminalization and regulation of sex work, and the positions of other organizations and groups on sex work. LEAF also engaged in outreach and introductory meetings with sex workers’ rights organizations, facilitated conversations, and education sessions with its internal stakeholders.

³ “LEAF’s Strategic Plan 2021-2026”, online: *Women’s Legal Education and Action Fund* <<https://www.leaf.ca/our-mission-vision/>>.

⁴ *Ibid.*

This position complements LEAF’s advocacy work on socioeconomic rights, such as its recent law reform reports on basic income that called for an implementation of a livable basic income alongside other necessary social policies and protections, such as labour protections, accessible public services, and pathways to permanent residency.⁵

With the publication of this position, LEAF seeks and commits to further developing relationships with sex workers and allied organizations. LEAF’s position is an evolving one, which will be re-evaluated and updated based on evidence, human rights principles, and the development of meaningful relationships with sex workers. LEAF will also seek opportunities for learning and dialogue with Indigenous women’s organizations, including those that work with and support Indigenous sex workers, as Indigenous women are overrepresented in the sex industry and bear the brunt of many of the human rights violations stemming from the impacts of colonization, criminal laws, and the over-surveillance and under-protection by law enforcement.

II. Sex Work Laws in Canada: Background and Context

This section provides a brief summary of federal legislation impacting sex workers, including a summary of the leading case, *Canada (Attorney General) v. Bedford*.

We acknowledge that other laws, such as provincial anti-trafficking laws (e.g., Ontario’s *Combating Human Trafficking Act*)⁶ and municipal by-laws regulating massage parlours and other settings where sex work may occur (e.g., body rub parlours), also impact sex workers. However, the discussion in this section is limited to criminal and immigration laws.

⁵ Sally Kimpson, “Basic Income, Gender, and Disability” (2021) online: *Women’s Legal Education and Action Fund* <<https://www.leaf.ca/publication/basic-income-gender-and-disability/>>; Cee Strauss, “Basic Income and the Care Economy” (2021) online (pdf): *Women’s Legal Education and Action Fund* <<https://www.leaf.ca/wp-content/uploads/2021/09/Basic-Income-The-Care-Economy-Full-Report-Final.pdf>>.

⁶ *Combating Human Trafficking Act*, 2021, SO 2021, c 21.

A. Criminal Law

Canada's current sex work laws were enacted in 2014, after three of the major prostitution provisions were challenged and ultimately found to be unconstitutional by the Supreme Court of Canada in *Canada (Attorney General) v. Bedford*.⁷

This section provides an overview of Canada's current sex work laws, beginning with a brief summary of the Supreme Court of Canada's decision in *Bedford*.

i. *Canada (Attorney General) v. Bedford*

In 2013, the Supreme Court of Canada struck down three *Criminal Code*⁸ provisions relating to sex work by finding that those provisions violated sex workers' right to security of the person, guaranteed under section 7 of the *Charter*.⁹ The *Bedford* decision was the first constitutional challenge to sex work laws led by sex workers in the community, and the first time the Supreme Court recognized the harms of criminalization to the health and safety of sex workers.

The provisions at issue in *Bedford* were:

- the prohibition against keeping or being in a "bawdy-house" for the purposes of prostitution (section 210; the definition of a "bawdy-house" appeared in section 197);
- the prohibition against living on the avails of prostitution (section 212(1)(j)); and
- the prohibition against communicating in public for the purposes of prostitution (section 213(1)(c)).

⁷ 2013 SCC 72.

⁸ RSC 1985, c C-46.

⁹ While the case also raised the issue of whether the prohibition against communicating in public violated section 2(b) of the *Charter*, the Supreme Court did not deal with this issue in light of its conclusion on section 7.

In reaching the conclusion that all three provisions were unconstitutional, the Court found that “[t]he prohibitions at issue do not merely impose conditions on how prostitutes operate. They go a critical step further, by imposing *dangerous* conditions on prostitution”¹⁰; they displace sex workers “to more secluded, less secure locations”,¹¹ and prevent sex workers “from taking measures that would increase their safety, and possibly save their lives”.¹²

In its decision, the Court discussed in depth why each provision violated section 7.

a. **Bawdy-house**

The Court found that the bawdy-house provisions increased the risks that sex workers faced because:

1. they prevent sex workers from working in a fixed indoor location, which would provide more safety for workers than working on the streets or going to meet clients at different locations. The dangers of outdoor work or out-calls are exacerbated by the prohibition on hiring drivers or security guards under the living on the avails provision;
2. they interfere with having health checks and preventative health measures; and
3. the provisions prevent the operation of safe houses, where street workers could take clients. The Court cited the example of Grandma’s House in Vancouver’s Downtown Eastside, where street sex workers could bring clients during the time period when a serial killer targeting sex workers was active, which was forced to shut down after being charged with running a bawdy-house.¹³

Consequently, the Court determined that the negative impact of the bawdy-house provision was grossly disproportionate to its objective of “combat[ting] neighbourhood disruption or disorder” and “safeguard[ing] public health and safety”.¹⁴

¹⁰ *Canada (Attorney General) v Bedford*, 2013 SCC 72 at para 60.

¹¹ *Ibid* at para 155.

¹² *Ibid* at para 162.

¹³ *Ibid* at para 64.

¹⁴ *Ibid* at para 132.

b. Living on the avails

The Court found that the living on the avails provision was overbroad, because it punishes “everyone who lives on the avails of prostitution without distinguishing between those who exploit prostitutes and those who could increase the safety and security of prostitutes (for example, legitimate drivers, managers, or bodyguards)”.¹⁵

This in turn prevented sex workers from engaging their services in order to reduce the risks they faced, which negatively impacted their security of the person.¹⁶

c. Communicating in Public

The Court held that the communicating provision was grossly disproportionate to the objective of removing the alleged nuisance of street sex work,¹⁷ because it prevented street sex workers from screening clients and setting terms for things like using condoms or safe houses,¹⁸ which is an “essential tool” to avoiding violence and harm.¹⁹

ii. Current Legislation – *Protection of Communities and Exploited Persons Act*

Following the *Bedford* decision, Parliament enacted the *Protection of Communities and Exploited Persons Act* (*PCEPA*, also known as Bill C-36)²⁰ in 2014.

The legislative approach of *PCEPA* is based on what is commonly referred to as the “Nordic” or “end demand” model, which aims to “target those who create the demand for [sex

¹⁵ *Ibid* at para 142.

¹⁶ *Ibid* at para 67.

¹⁷ *Ibid* at para 147.

¹⁸ *Ibid* at para 71.

¹⁹ *Ibid* at para 148.

²⁰ *Protection of Communities and Exploited Persons Act*, SC 2014, c 25.

work] and those who capitalize on that demand.”²¹ The Nordic model 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.

Unlike the previous sex work laws that framed sex work as a public nuisance, *PCEPA* frames sex work as “a form of sexual exploitation that disproportionately and negatively impacts on women and girls”.²² While several objectives of *PCEPA* are set out in its preamble²³, the legislation’s overarching aim is to end demand for the purchase of sexual services and effectively eliminate sex work in Canada.

PCEPA created offences under two categories: “Prostitution Offences” and “Trafficking in Persons Offences”.

a. Prostitution Offences

- Purchasing Offence (section 286.1): Obtaining sexual services for consideration, or communicating in any place for that purpose
- Advertising Offence (section 286.4): Knowingly advertising an offer to provide sexual services for consideration
- Material Benefit Offence (section 286.2): Receiving a financial or other material benefit obtained by or derived from the commission of the purchasing offence. The scope of this provision is limited by exceptions, which note that the provision does not apply if the benefit is received in certain contexts, e.g., if the benefit is received “in the context of a legitimate living arrangement” such as a spouse of the person who provides the benefit.²⁴

²¹ Canada, Department of Justice, *Technical Paper: Bill C-36, Protection of Communities and Exploited Persons Act* (Ottawa: Department of Justice, 2014) online: <<https://www.justice.gc.ca/eng/rp-pr/other-autre/protect/p1.html>>.

²² *Ibid.*

²³ *Protection of Communities and Exploited Persons Act*, SC 2014, c 25.

²⁴ *Ibid* at s 20.

- Procuring Offence (section 286.3): Procuring a person to offer or provide sexual services for consideration; or, for the purpose of facilitating the purchasing offence, recruiting, holding, concealing or harbouring a person who offers or provides sexual services for consideration, or exercising control, direction or influence over the movements of that person.
- Communicating in a Public Place Offence (section 213 (1.1)): Communicating for the purposes of offering or providing sexual services for consideration in public places that are or are next to school grounds, playgrounds or daycare centres.

In addition, section 213(1) of the *Criminal Code* (the Impeding Traffic Offence), which existed prior to the enactment of *PCEPA*, criminalizes stopping or impeding traffic for the purpose of offering or obtaining sexual services.

Section 286.5 grants immunity from prosecution for offences under sections 286.1 to 286.4 to individuals who solely sell or advertise their own sexual services.

b. Trafficking in Persons Offences

- Main Trafficking Offences (sections 279.01 and 279.011): Recruiting, transporting, transferring, receiving, holding, concealing or harbouring a person; or exercising control direction or influence over a person for the purpose of exploiting or facilitating their exploitation.
- Material Benefit Offence (section 279.02): Receiving a financial or other material benefit knowing that it is obtained by or derived from the commission of a human trafficking offence.
- Documents Offence (section 279.03): Concealing, removing, withholding or destroying travel or identity documents for the purpose of facilitating a human trafficking offence.

iii. Parliamentary Review of *PCEPA*

Subsection 45.1(1) of *PCEPA* provides that a comprehensive review of the legislation needs to be undertaken by a committee of the House of Commons within five years of it coming into force.²⁵ Notwithstanding that *PCEPA* came into force in December 2014, the Standing

²⁵ *Ibid* at s 45.1(1).

Committee on Justice and Human Rights only began its review over seven years later, in February 2022. Testimonies concluded in April 2022.

iv. Legal Challenges

Recently, several cases have challenged the constitutionality of certain provisions of *PCEPA*, with conflicting decisions from the lower courts.²⁶ In February 2022, the Court of Appeal for Ontario reversed the application judge’s finding in *R. v. N.S.*²⁷ by ruling that sections 286.2 (material benefit), 286.3 (procuring), and 286.4 (advertising) in the “Prostitution Offences” of *PCEPA* are constitutional.

In March 2021, the Canadian Alliance for Sex Work Law Reform, Monica Forrester, Valerie Scott, Lanna Moon Perrin, Jane X, Alessa Mason, and Tiffany Anwar filed a Notice of Application at the Ontario Superior Court of Justice challenging the constitutionality of Canada’s sex work laws.²⁸ The individual named applicants in the notice are primarily sex workers who engage in both indoor and outdoor sex work. The Canadian Alliance for Sex Work Law Reform is a public interest standing litigant, representing a coalition of 25 sex worker-led and allied groups from across Canada with an objective of advancing sex work law reform, sex workers’ rights, and community well-being.

The applicants argue that the *Criminal Code* prohibitions against impeding traffic (s. 213(1)), public communication (s. 213 (1.1)), purchasing (s. 286.1(1)), materially benefitting (s. 286.2(1)), recruiting (s. 286.3(1)), and advertising (s. 286.4) violate their rights guaranteed under

²⁶ *R v Anwar*, 2020 ONCJ 103; *R v NS*, 2022 ONCA 160; *R v MacDonald*, 2021 ONSC 4423 (where the Court declined to follow the trial decision in *NS* and found ss. 286.2(1), 286.3(1) and 286.4 to be constitutional and that they do not infringe s 7 of the *Charter*); *R v Maldonado Vallejos*, 2021 ONSC 5809 (where the Court agreed with the ruling in *MacDonald* and declined to follow the trial decision in *NS*).

²⁷ *R v NS*, 2022 ONCA 160.

²⁸ *Canadian Alliance for Sex Work Law Reform et al v Canada (Attorney General)*, Notice of Application issued March 29, 2021.

sections 2(b), 2(d), 7, and 15 of the *Charter of Rights and Freedoms*. The hearing for this challenge is tentatively scheduled for September 2022.

Given the progress of these cases, the Supreme Court of Canada will likely be weighing in on the constitutionality of Canada's sex work laws in the near future.

B. Immigration Law

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.²⁹

III. Why LEAF is concerned about Canada's sex work laws

Sex work is gendered work. The majority of sex workers are women (cis and trans). While there is no accurate information on the exact number of sex workers in Canada, much of the research on the demographics of sex workers in Canada supports the notion that an "overwhelming" number of sex workers identify as women (cis and trans).³⁰ In addition, Cecilia Benoit and Leah Shumka note that "certain sectors of the sex industry in Canada are highly racialized, with the First Nations, Métis and Inuit people of Canada ... disproportionately represented in street level sex work."³¹

²⁹ *Immigration and Refugee Protection Regulations*, SOR/2002-227 at ss 183(1)(b.1), 196, 200(3)(g.1). See also Judy Fudge *et al.*, "Caught in the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers" (2021) online (pdf): *Butterfly: Asian and Migrant Sex Workers Support Network* <https://www.butterflysw.org/files/ugd/5bd754_71be1154f6ff4bbb94a03ed7931a32df.pdf>.

³⁰ Cecilia Benoit & Leah Shumka, "Sex Work in Canada" (updated 7 July 2021) at 3, online (pdf): *Understanding Sex Work* <<https://www.understandingsexwork.ca/sites/default/files/uploads/2021%2007%2003%20Who%20are%20Sex%20Workers%20updated.pdf>>.

³¹ *Ibid.*

The reasons why people do sex work are varied. Not only is sex work a means to generate income, but sex workers have described sex work as offering greater flexibility, better incomes, and better working conditions compared with other forms of precarious work.³² Other sex workers decide to do sex work because of systemic oppression and barriers they face in accessing other kinds of employment and social supports.³³ The grounds of systemic oppression include (but are not limited to): settler colonialism, racism, ableism, homophobia, transphobia, precarious immigration status, and stigma against drug use. For sex workers who are trans or non-binary, “[b]eing gender queer or in the process of transitioning or affirming gender identity can also result in exclusion from many kinds of employment.”³⁴

LEAF is concerned about the impact of criminalization on women, trans, and non-binary people – particularly, Black, Indigenous, and racialized women, trans, and non-binary people. Since the enactment of *PCEPA*, evidence has demonstrated the current law has increased targeted violence and harm for sex workers, including violence and harm from law enforcement.³⁵ Sex workers – especially outdoor 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.³⁶ The COVID-19 pandemic has exacerbated

³² *Ibid.*

³³ *Ibid* at 11.

³⁴ Pivot Legal Society, “Evaluating Canada’s Sex Work Laws: The Case for Repeal” (2016) at 36, online (pdf): *Pivot*. <https://d3n8a8pro7vhmx.cloudfront.net/pivotlegal/pages/1960/attachments/original/1480910826/PIVOT_Sex_workers_Report_FINAL_hires_ONLINE.pdf?1480910826>.

³⁵ *Ibid*; Sandra Ka Hon Chu, Jenn Clamen, & Tara Santini, “The perils of “protection”: sex workers’ experiences of law enforcement in Ontario” (2019) at 21, online (pdf): *HIV Legal Network* <https://www.actioncanadashr.org/sites/default/files/2019-04/2807_HIVLegalNetwork_SexWorkerDocumentation_Report_English_Final.pdf>; Elena Argento *et al.*, “Harms of End-Demand Criminalization: Impact of Canada’s PCEPA Laws on Sex Workers’ Safety, Health & Human Rights” (December 2019) at 5, online (pdf): *Centre for Sexual and Health Equity* <https://www.cgshe.ca/app/uploads/2019/12/Harms_2019.12.16.v1.pdf>.

³⁶ Tara Lyons *et al.*, “The Impacts of Intersecting Stigmas on Health and Housing Experiences of Queer Women Sex Workers in Vancouver, Canada” (2019) 68:3, *Journal of Homosexuality* 1 <<https://www.tandfonline.com/doi/abs/10.1080/00918369.2019.1694337?journalCode=wjhm20>>; Street Health and Regent Park Community Health Centre, “Street Based Sex Workers Needs Assessment Survey - Toronto,

the precarity of sex workers' livelihoods – but many sex workers could not access government income supports like the Canada Emergency Relief Benefit because of the criminalization of and stigma against sex work.³⁷

LEAF is also concerned about the conflation of sex work and trafficking in the current legislation. *PCEPA* characterizes all sex work as inherently exploitative,³⁸ which conflates sex work (i.e., the exchange of sexual services for some form of remuneration) with trafficking, which is characterized by a lack of consent, coercion and/or control, and/or conduct that could reasonably be expected to cause a person to believe their safety or the safety of someone known to them would be threatened if they failed or refused to offer a service.³⁹ This conflation has been criticized by many – including sex workers, scholars, and UN bodies – for being harmful to both sex workers *and* victims/survivors of trafficking.⁴⁰ Moreover, the consequences of these negative impacts differ for sex workers, depending on their race: “Asian women [have been] racially profiled by law enforcement for the purpose of issuing tickets or identifying immigration infractions rather than to identify victims of human trafficking, and Indigenous and Black workers [...] were themselves accused of human trafficking.”⁴¹

Barrie and Oshawa” (2014) online (pdf): *Street Health* < <https://www.streethealth.ca/downloads/sex-workers-needs-assessment.pdf>>.

³⁷ Cecilia Benoit and Róisín Unsworth, “COVID-19, Stigma, and the Ongoing Marginalization of Sex Workers and their Support Organizations” (2022) 51 *Archives of Sexual Behaviour* 331 <<https://link.springer.com/article/10.1007/s10508-021-02124-3>>.

³⁸ *Protection of Communities and Exploited Persons Act*, SC 2014, c 25, Preamble.

³⁹ See for example: *Criminal Code*, RSC 1985, c C-46, ss 279.01, 279.04.

⁴⁰ See for example: UNAIDS, *UNAIDS Guidance Note on HIV and Sex Work* (last updated 2012) at 14-16, online (pdf); UNAIDS/09.09E <https://www.unaids.org/sites/default/files/media_asset/JC2306_UNAIDS-guidance-note-HIV-sex-work_en_0.pdf>; Robyn Maynard, “Fighting Wrongs with Wrongs? How Canadian anti-trafficking crusades have failed sex workers, migrants, and Indigenous communities” (2015) 37:2, *Atlantis: Critical Studies in Gender, Culture and Social Justice* 40 <<https://journals.msvu.ca/index.php/atlantis/article/view/3041>>.

⁴¹ Sandra Ka Hon Chu, Jenn Clamen, & Tara Santini, “The perils of “protection”: sex workers’ experiences of law enforcement in Ontario” (2019) at 21, online (pdf): *HIV Legal Network* <https://www.actioncanadashr.org/sites/default/files/2019-04/2807_HIVLegalNetwork_SexWorkerDocumentation_Report_English_Final.pdf>. See also Fay Faraday, “Migrant Women’s Rights Project, Discussion Paper #1: An Iterative Learning Journey to Deconstruct

LEAF's strategic priority of acting with respect for intersectional and multi-sectoral knowledge aligns with the need to take a public advocacy position on sex work.

IV. Principles underlying LEAF's position

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

A. Recognizing the harms of criminalization that threaten the safety of sex workers, especially for Black, Indigenous, and racialized sex workers

There have been growing calls within the feminist movement – especially from Black, Indigenous, and racialized women – to recognize the harms of criminal laws and policing on Black, Indigenous, and racialized communities.⁴² Historically, police have played a key role in enforcing colonial criminal law in Canada; Canada's first national police force (which later became the Royal Canadian Mounted Police) was created for the purpose of controlling Indigenous people, restricting Indigenous people's mobility, and using criminal law to deny Indigenous people's sovereignty.⁴³ LEAF's recent intervention in *R. v. Sharma*, which focused

'Trafficking'" (2019) at 16, online: *Barbra Schlifer Commemorative Clinic* <<https://schliferclinic.com/wp-content/uploads/2020/07/FARADAY-Migrant-Womens-Rights-Project.pdf>>.

⁴² See for example: Critical Resistance and INCITE! Women of Color Against Violence, "Statement on Gender Violence and the Prison Industrial Complex" (2001) online: *INCITE!* <<https://incite-national.org/incite-critical-resistance-statement/>>; Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to Present* (Winnipeg: Fernwood Publishing, 2017).

⁴³ Jessica Evans, "Penal nationalism in the settler colony: On the construction and maintenance of 'national whiteness' in settler Canada" (2021) 23:4 *Punishment & Society* 515 at 522 <<https://journals.sagepub.com/doi/full/10.1177/14624745211023455>>; Sean Carleton, "Might is not right: A historical perspective on coercion as a colonial strategy" (21 February 2020) online: *Canadian Dimension* <<https://canadiandimension.com/articles/view/might-is-not-right-a-historical-perspective-on-coercion-as-a-colonial-strategy>>.

on highlighting the harms of criminalization and over-incarceration of Indigenous women, provides one example of LEAF's response to these calls.⁴⁴

Laws that criminalize buying sex and the organization of sex work often harm sex workers by depriving them of income, alienating them from networks of support, forcing sex workers to work in isolation, and exposing them to greater risks in attempts to avoid police detection. Like many other industries, the sex industry is not devoid of sexism and/or exploitation; however, criminalizing the industry does not address these issues, but rather perpetuates the conditions in which exploitation and violence can occur, while exacerbating the challenges sex workers face in addressing these issues in their work.

Criminalization also increases danger for sex workers because it creates more opportunities for law enforcement and justice system actors (like judges and lawyers) to interfere with, and limit the agency of, sex workers. In addition to the harms caused by criminalization that are outlined above, the regular surveillance and harassment by law enforcement that stems from criminalization can lead to loss of housing, child custody, and income supports.⁴⁵ The interference and the resulting harm are greater for Black, Indigenous, trans, racialized, and migrant sex workers. For sex workers who are undocumented, have

⁴⁴ See LEAF's factum in *R v Sharma*, SCC Case No 39346 (judgment reserved), online (pdf): *LEAF* <<https://www.leaf.ca/wp-content/uploads/2022/03/SCC-39346-Factum-of-the-Intervener-LEAF-suitable-for-posting.pdf>>.

⁴⁵ Elena Argento *et al.*, "Harms of End-Demand Criminalization: Impact of Canada's PCEPA Laws on Sex Workers' Safety, Health & Human Rights" (December 2019) at 5, online (pdf): *Centre for Sexual and Health Equity* <https://www.cgshe.ca/app/uploads/2019/12/Harms_2019.12.16.v1.pdf>; Tara Lyons *et al.*, "The Impacts of Intersecting Stigmas on Health and Housing Experiences of Queer Women Sex Workers in Vancouver, Canada" (2019) 68:3, *Journal of Homosexuality* 1 <<https://www.tandfonline.com/doi/abs/10.1080/00918369.2019.1694337?journalCode=wjhm20>>; Julie Eleanor DeWolf, "Sex Workers and the Best Interests of their Children: Identifying Issues Faced by Sex Workers Involved in Custody and Access and Access Legal Proceedings" (2020) [unpublished LLM thesis] online (pdf): *Osgoode Hall Law School Digital Commons* <https://digitalcommons.osgoode.yorku.ca/llm/44?utm_source=digitalcommons.osgoode.yorku.ca%2Fllm%2F44&utm_medium=PDF&utm_campaign=PDFCoverPages>.

precarious immigration status, or are permanent residents, criminalization also increases their risk of detention, deportation, and/or loss of status.⁴⁶

LEAF recognizes that many sex workers and sex workers' organizations have been calling on gender equality organizations such as LEAF to endorse decriminalization as a feminist and human rights-based approach to sex work policy. LEAF also recognizes that there are differing opinions and debate about decriminalizing sex work. Certain Indigenous organizations, including Indigenous women's organizations, have supported the current sex work laws;⁴⁷ others support decriminalizing sex work⁴⁸ and see decriminalization as respecting the self-determination and agency of Indigenous women and girls.⁴⁹ LEAF recognizes that

⁴⁶ Judy Fudge *et al.*, "Caught in the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers" (2021) online: *Butterfly: Asian and Migrant Sex Workers Support Network* <https://www.butterflysw.org/files/ugd/5bd754_71be1154f6ff4bbb94a03ed7931a32df.pdf> .

⁴⁷ See for example: Aboriginal Women's Action Network, "Brief to the Standing Committee on Justice and Human Rights Re: Review of The Protection of Communities and Exploited Persons Act", (2022) online (pdf): *Government of Canada* <<https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11604336/external/AboriginalWomensActionNetwork-e.pdf>>; European Women's Lobby, "Indigenous Women Against the Sex Industry", (3 April 2014), online: *European Women's Lobby* <<https://www.womenlobby.org/Indigenous-Women-Against-the-Sex-Industry>>.

⁴⁸ See for example: House of Commons Standing Committee on Justice and Human Rights, 44th Parliament, 1st Session, Evidence, 1 March 2022 (Christa Big Canoe, Legal Advocacy Director, Aboriginal Legal Services) at p 12, online (pdf): *Government of Canada* <<https://www.ourcommons.ca/Content/Committee/441/JUST/Evidence/EV11616848/JUSTEV05-E.PDF>>;

The Iskweu Project, a project of the Native Women's Shelter of Montreal: "A Submission to the House of Commons Standing Committee on Justice and Human Rights Re: *Protection of Communities and Exploited Persons Act* (PCEPA)" (2022) online (pdf): *Government of Canada* <<https://www.ourcommons.ca/Content/Committee/441/JUST/Brief/BR11594904/external/NativeWomensShelterOfMontreal-e.pdf>>; No More Silence, "No Justice, No Peace – Honouring Cindy Gladue" (29 March 2015), online: *No More Silence* <<http://nomoresilence-nomoresilence.blogspot.com/2015/03/no-justice-no-peace-honouring-cindy.html>>. Maggie's Indigenous Sex Work Drum Group is also a member group of the Canadian Alliance for Sex Work Law Reform.

⁴⁹ Sarah Hunt, "Decolonizing Sex Work: Developing an Intersectional Indigenous Approach" in Emily van der Meulen, Elya M Durisin & Victoria Love, eds, *Selling Sex: Experience, Advocacy, and Research on Sex Work in Canada* (Vancouver: UBC Press, 2013) 82 at 87-88 <https://www.antiviolenceproject.org/wp-content/uploads/2014/12/Hunt_Selling-Sex.pdf>; National Inquiry into Missing and Murdered Indigenous Women and Girls, *Vancouver Sex Workers Rights Collective: Written Submissions* (Vancouver, 18 December 2018) at 2 <<https://www.mmiwg-ffada.ca/wp-content/uploads/2019/06/Van-Sex-Worker-Rights-Collective-Final-written-submission.pdf>>; National Inquiry of Missing and Murdered Indigenous Women and Girls, "Lanna Moon Perrin – Artist, Activist and Sex Trade Worker – Knowledge Keeper, Expert and Institutional – Hearings: Sexual

Indigenous women are not homogenous: experiences of sex work are varied and contextual, and the experiences of Indigenous women are rooted within their respective Nations and communities.

While moving forward on the basis of the position set out in this paper, LEAF will seek opportunities for dialogue with Indigenous organizations (including Indigenous women's organizations and those that work with and support sex workers) that do and do not support decriminalization. LEAF also commits to developing relationships of solidarity and support with sex workers.

B. Respecting sex workers' rights to autonomy, dignity, and equality

LEAF recognizes that sex workers have been effectively organizing to advocate for their rights and care for their communities for a long time. Many sex workers and sex workers' rights organizations have been vocal about the human rights violations that stem from the criminalization of any aspect of sex work. For example, the Canadian Alliance for Sex Work Law Reform published a comprehensive set of law and policy reform recommendations in 2017, including a recommendation to fully decriminalize sex work.⁵⁰

Fully decriminalizing sex work is an important first step for sex workers to exercise their rights – including their rights to autonomy, dignity, and equality. It also recognizes sex workers' agency, facilitates the conditions in which they are better able to establish consent, and allows for the implementation of labour protections. Decriminalization can also lead to increased options for reporting of real violence and harm that sex workers experience.

Exploitation – St. John's, Day 3 – October 17, 2018" (12 June 2019), posted on *National Inquiry MMIWG / Enquête nationale FFADA*, online: *Facebook* <<https://www.facebook.com/MMIWG/videos/2308846616020652>>.

⁵⁰ Canadian Alliance for Sex Work Law Reform, "Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada" (March 2017), online (pdf): *Canadian Alliance for Sex Work Law Reform* <<http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf>>.

C. Gender inclusion

While sex work is a gendered industry, not all sex workers are women. A 2014 working paper examining the sex industry in Canada found that 77% of sex workers were women, 17% were men, and 6% were another gender.⁵¹

A gender inclusive approach to sex work requires recognizing the structural inequalities that contribute to why trans and non-binary people may engage in sex work, including “employment discrimination, housing insecurity, the need to fund gender-affirming care, and benefits including access to community and affirmation of gender identity.”⁵² While there is no available data in Canada, data from the U.S. suggests that trans women – especially Black trans women and trans women of colour – are disproportionately represented in the sex industry.⁵³

Trans and non-binary people who do sex work are more likely to live in poverty, and face higher risks of discrimination and violence than trans and non-binary people not doing sex work.⁵⁴ International data has demonstrated that trans and gender-diverse sex workers constitute 62 per cent of the reported killing of trans and gender-diverse people whose

⁵¹Cecilia Benoit *et al.*, “A ‘working paper’ prepared as background to Building on the Evidence: An International Symposium on the Sex Industry in Canada” (2014) online (pdf): *Understanding Sex Work* <<http://www.understandingsexwork.com/sites/default/files/uploads/Team%20Grant%20Working%20Paper%201%20CBenoit%20et%20al%20%20September%2018%202014.pdf>>.

⁵² Trans PULSE Canada, “Health and Well-Being Among Trans and Non-Binary People Doing Sex Work” (2021) online: *Trans PULSE Canada* <<https://transpulsecanada.ca/results/report-health-and-well-being-among-trans-and-non-binary-people-doing-sex-work/>>.

⁵³ Sandy E James *et al.*, “The Report of the 2015 U.S. Transgender Survey” (2016), online (pdf): *National Center for Transgender Equality* <<https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>>; Erin Fitzgerald *et al.*, “Meaningful Work: Transgender Experiences in the Sex Trade” (2015) online (pdf): *National Center for Transgender Equality* <https://transequality.org/sites/default/files/Meaningful%20Work-Full%20Report_FINAL_3.pdf>.

⁵⁴ Trans PULSE Canada, “Health and Well-Being Among Trans and Non-Binary People Doing Sex Work” (2021) online: *Trans PULSE Canada* <<https://transpulsecanada.ca/results/report-health-and-well-being-among-trans-and-non-binary-people-doing-sex-work/>>.

profession is known.⁵⁵ Acknowledging the marginalization and risks of abuse and violence specific to trans and non-binary sex workers is important to ensure that sex work law reform reflects the diversity of the sex worker population.

D. Recognizing the context informing decisions to engage in sex work and respecting the agency of sex workers

Like many other types of work, a person's decision to work in the sex industry is informed by varied circumstances. The spectrum of options is more limited for people facing systemic barriers; therefore, the likelihood of someone engaging in sex work out of economic necessity is higher for someone facing multiple intersecting grounds of discrimination such as Indigeneity, race, disability, trans identity, immigration status, and/or poverty. Sex work may be a viable and valuable option for people – including those with families to support – whose economic empowerment and job opportunities are limited by systemic oppression.

LEAF's position aims to respect the dignity, equality, agency, and decision-making capacity of sex workers, while also recognizing that decisions are made in a context of structural inequalities and less-than ideal circumstances. Nevertheless, a decision made in the context of structural inequalities is still a valid exercise of a person's agency.

Our position seeks to reflect the varied and contextual nature of sex workers' realities by advocating for no-barrier and robust social supports at all levels of government. Increasing social supports, coupled with full decriminalization of sex work, aligns with the equality rights-based approach that LEAF takes in its feminist advocacy, by respecting the decisions that

⁵⁵ Boglarka Fedorko and Lukas Berredo, "The vicious circle of violence: Trans and gender-diverse people, migration, and sex work" (2017) at 18, online (pdf): *Transrespect versus Transphobia Worldwide* <<https://transrespect.org/wp-content/uploads/2018/01/TvT-PS-Vol16-2017.pdf>>.

people make for themselves within the range of options available to them, while addressing structural inequalities that many sex workers experience.

E. Respecting the diversity of sex workers' experiences

Because the decision to enter into sex work exists on a spectrum, LEAF recognizes that sex work means different things for different people. Therefore, LEAF does not characterize sex work as inherently exploitative or void of all exploitation. Sex workers' experiences in the sex industry are varied, depending on the type of sex work as well as the social location of the worker. We also recognize that sex work is only one of many industries in which the potential for exploitation and harm exists.

F. Distinguishing sex work from trafficking

Sex work and trafficking are not synonymous.

The term “trafficking” itself has been used to conflate multiple concepts that range from physical, sexual, and labour abuses, to child sexual abuse.⁵⁶ As a result, it is difficult to define trafficking precisely; we note that generally, sex trafficking differs from sex work because it is characterized by a lack of consent, coercion and/or control, and/or conduct that could reasonably be expected to cause a person to believe their safety or the safety of someone known to them would be threatened if they failed to offer a sexual service.⁵⁷

It is also important to conceptualize trafficking as a result of ongoing systemic oppressions that lead to such coercive and disenfranchising positions of victims, rather than a

⁵⁶ See for example: Julie Kaye, *Responding to Human Trafficking: Dispossession, Colonial Violence, and Resistance among Indigenous and Racialized Women* (Toronto: University of Toronto Press, 2017); Robyn Maynard, “Fighting Wrongs with Wrongs? How Canadian anti-trafficking crusades have failed sex workers, migrants, and Indigenous communities” (2015) 37:2, *Atlantis: Critical Studies in Gender, Culture and Social Justice* 40.

⁵⁷ See for example: *Criminal Code*, RSC 1985, c C-46, ss 279.01, 279.04.

bad and deviant individual “trafficker”. For example, closed work permits that do not allow the permit-holder to leave their work without jeopardizing their immigration status can result in the worker’s loss of agency and mobility that will facilitate conditions for trafficking.

Criminalizing sex work and characterizing all sex work as exploitative makes it difficult to identify incidences of trafficking, can make it more difficult for victims/survivors of trafficking to come forward, and excludes sex workers from the protection against labour exploitation available to other workers through employment laws.

V. Recommendations

Based on the principles identified above, which reflect an evidence- and human rights-based approach to sex work, LEAF makes the following recommendations.

Recommendation 1: Repeal all sex work-specific provisions in the *Criminal Code* applicable to sex work done by adults.

Prior to and since the enactment of *PCEPA* in 2014, there have been calls to fully decriminalize sex work from sex workers' organizations,⁵⁸ human rights organizations,⁵⁹ and international health and policy organizations.⁶⁰

In line with LEAF's evolving advocacy that recognizes disproportionate harms caused by criminal laws to marginalized women and gender-diverse people, LEAF supports the call for the full decriminalization of sex work by adults (i.e., persons over 18 years of age) and supports

⁵⁸ Canadian Alliance for Sex Work Law Reform, "Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada" (March 2017), online (pdf): *Canadian Alliance for Sex Work Law Reform* <<http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf>>.

⁵⁹ See for example: Amnesty International, "Amnesty International Policy on State Obligations to Respect, Protect and Fulfill the Human Rights of Sex Workers" (May 2016), online: *Amnesty International* <<https://www.amnesty.org/en/documents/pol30/4062/2016/en/>>; Human Rights Watch, "Why Sex Work Should be Decriminalized" (7 August 2019), online: *Human Rights Watch* <<https://www.hrw.org/news/2019/08/07/why-sex-work-should-be-decriminalized>>; Pivot Legal Society, "Evaluating Canada's Sex Work Laws: The Case for Repeal" (2016), online: *Pivot Legal Society* <https://www.pivotlegal.org/evaluating_canada_s_sex_work_laws_the_case_for_repeal/>; Egale, "Sex Work in Canada Research Brief" (April 2021), online: *Egale* <https://adobeindd.com/view/publications/b04e7320-d7b9-418f-b32b-14bdce281ca0/1/publication-web-resources/pdf/Sex_Work_Brief_Updated.pdf>; Action Canada for Sexual Health and Rights, "End the Criminalization of Sex Work!" (30 September 2019), online: *Action Canada SHR* <<https://www.actioncanadashr.org/news/2019-09-30-end-criminalization-sex-work/>>; Ontario Coalition of Rape Crisis Centres, "Our Statement on Sex Work" (7 July 2021), online: *OCRCC* <<https://sexualassaultsupport.ca/our-statement-on-sex-work/>>.

⁶⁰ World Health Organization *et al.*, "Prevention and treatment of HIV and other sexually transmitted infections for sex workers in low- and middle-income countries: recommendations for a public health approach" (December 2012), online (pdf): *World Health Organization* <https://apps.who.int/iris/bitstream/handle/10665/77745/9789241504744_eng.pdf>; Global Commission on HIV and the Law, "HIV and the Law: Risks, Rights & Health – 2018 Supplement" (July 2018), online (pdf): *Global Commission on HIV and the Law* <https://hivlawcommission.org/wp-content/uploads/2020/06/Hiv-and-the-Law-supplement_EN_2020.pdf>.

repealing the provisions enacted by *PCEPA* as they pertain to sex work done by adults. This includes the repeal of the Purchasing Offence (section 286.1), the Material Benefit Offence (section 286.2), the Procuring Offence (section 286.3), the Advertising Offence (section 286.4), and the Communicating in a Public Place Offence (section 213(1.1)), as well as the Impeding Traffic Offence (section 213(1)). This call to fully decriminalize sex work is consistent with LEAF's mandate of advancing substantive gender equality, because it calls on the federal government to remove punitive laws that exacerbate the discriminatory treatment of sex workers, many of whom are women facing intersecting grounds of discrimination under the law.

Recommendation 2: Repeal immigration regulations that prohibit temporary residents and foreign nationals from working in the sex industry

We amplify the recommendation from the Canadian Alliance for Sex Work Law Reform calling on the federal government to repeal sections 183(1)(b.1), 196.1(a), 200(3)(g.1), and 203(2)(a) of the *Immigration and Refugee Protection Regulations*, which prohibit foreign nationals from working in the sex industry.⁶¹ These provisions push migrant sex workers into precarious working conditions, increase their vulnerability to exploitation and violence, and deter them from seeking supports if they do experience exploitation or violence.⁶²

We also amplify the recommendation from Butterfly (an Asian and Migrant Sex Worker Support Network based in Toronto) to repeal “ministerial orders pertaining to migrants

⁶¹ Canadian Alliance for Sex Work Law Reform, “Safety, Dignity, Equality: Recommendations for Sex Work Law Reform in Canada” (March 2017) at 46, online (pdf): *Canadian Alliance for Sex Work Law Reform* <<http://sexworklawreform.com/wp-content/uploads/2017/05/CASWLR-Final-Report-1.6MB.pdf>>. This prohibition captures work for employers who offer “striptease, erotica dance, escort services or erotic massages”, even when these businesses operate legally.

⁶² *Ibid.*

without permanent status working in the sex industry and ease work permit restrictions for all temporary foreign workers.”⁶³

Recommendation 3: Ensure that social supports – including income supports – are accessible and barrier-free for sex workers

Robust social security programs enable all people to make decisions about their livelihood with fewer economic constraints.

LEAF calls on federal, provincial, and territorial governments to ensure that social supports – including, but not limited to, emergency benefits such as the Canada Emergency Relief Benefit – remain accessible and barrier-free for sex workers.⁶⁴ This includes ensuring sex workers can access health and social services without discrimination, without judgment, and without fear of being reported, with all the potential attendant repercussions (e.g., loss of child custody, housing, and/or income supports).

Recommendation 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

Once sex work is decriminalized, it will be important to ensure that existing laws – such as employment legislation and occupational health and safety legislation – can meet the needs of sex workers and respect their rights and promote safe working conditions. Federal,

⁶³ Judy Fudge *et al.*, “Caught in the Carceral Web: Anti-Trafficking Laws and Policies and Their Impact on Migrant Sex Workers” (2021) at 61, online (pdf): *Butterfly: Asian and Migrant Sex Workers Support Network* <https://www.butterflysw.org/files/ugd/5bd754_71be1154f6ff4bbb94a03ed7931a32df.pdf>.

⁶⁴ Action Canada for Sexual Health and Rights *et al.*, “Canada must protect the rights of sex workers during COVID-19 by ensuring access to emergency income supports: Joint letter to government” (22 May 2020), online: *Amnesty International* <<https://www.amnesty.ca/blog/canada-must-protect-the-rights-of-sex-workers-during-covid-19-by-ensuring-access-to-emergency-income-supports/>>.

provincial, and territorial governments must commit to meaningful consultations with sex workers about any reviews or reforms of existing legislation and their application.

Recommendation 5: Meaningfully consult with sex workers about laws and policies (including their implementation) that directly impact their lives

Sex workers are experts on their own needs and livelihoods, with a robust network of support and knowledge. When it comes to law and policy reform that will impact sex workers' lives, LEAF echoes the call of the Canadian Alliance for Sex Work Law Reform that “[l]egislative review and reform must involve meaningful participation and consultation with sex workers, who are those most affected or potentially affected by such legislation.”⁶⁵

The consultation must also ensure that the diversity of sex workers' experiences and identities is represented – i.e., ensuring that perspectives of street sex workers, Black, Indigenous, racialized, trans, non-binary, and migrant sex workers are included.

Recommendation 6: Improve access to gender-affirming healthcare and social services

A gender inclusive approach to sex work law reform must examine how current social supports – including shelters and anti-violence supports – centre the needs of trans and non-binary people and are accessible. It must also ensure that sex workers with precarious immigration status are able to access these supports without fear of apprehension and/or deportation.

⁶⁵ Canadian Alliance for Sex Work Law Reform, “Meaningful Engagement and Consultation” (2019), online (pdf): *Canadian Alliance for Sex Work Law Reform* <<http://sexworklawreform.com/wp-content/uploads/2019/02/Meaningful-Engagement-and-Consultation-UPDATED.pdf>>.

LEAF calls on provincial and territorial governments to improve access to gender-affirming healthcare.⁶⁶

LEAF also calls on the federal government to provide adequate and sustained funding to organizations that provide gender-inclusive social support and counselling services.

VI. Conclusion

LEAF's position on sex work is an evolving one. Our 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.

⁶⁶ Brooke Taylor, "Trans health care in Canada needs major improvements, advocates say" (22 May 2021), online: *CTV News* <<https://www.ctvnews.ca/health/trans-health-care-in-canada-needs-major-improvements-advocates-say-1.5439295>>.