



**SAFE HARBOUR  
OUTREACH PROJECT**

*Support + Supplies + Sex Work Allies*

# **Lifting the Ban:**

Recommendations to Protect the Human Rights of  
Sex Workers in St. John's

**REPORT FOR ST. JOHN'S CITY COUNCIL**

Presented by SHOP

December 2018

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

Dear Mayor Danny Breen and St. John's City Council,

The Safe Harbour Outreach Project (SHOP) is the first and only sex worker advocacy program in Newfoundland & Labrador, operated by the St. John's Status of Women Council and Women's Centre. Our mandate at SHOP is to advocate for the human rights of all women who have engaged in sex work across our city and province, both on an individual and collective level. To date, we have connected with over 400 people with experience in the sex trade, and in practice our work involves a great deal of individual support, outreach, and advocacy. This unique program was developed in partnership with women who engage in sex work, and everything we do is informed by the real experts - sex workers themselves.

In our work, we are guided by values of sex workers' self-determination, harm reduction and social justice. In practice, we come from a place to meet each individual where they are at, and often for the people we serve that means supporting them in the ways they identify as they experience unsafe and inadequate housing, barriers to basic healthcare, interpersonal violence, isolation, poverty, food insecurity, sexual violence, untreated mental health and addictions, criminalization, stigma and fear. Some of our most basic work is in offering a real and safe sense of community where current and former sex workers can be valued and heard, with no waitlists, no discharge dates for our support, and no predetermined agenda for their needs. For some women who are ready to transition out of the sex trade, we support them to make these significant changes when and if they are ready, and for other women who are trying to survive under highly complex and layered conditions, we support them in navigating systems that are often very adversarial and harmful to their reality of deciding to engage in sex work.

In five years of operating, our program has secured a physical space, we offer weekly drop-in programming, safer sex supplies, counselling, ongoing outreach to shelters, massage parlours and clubs, community organizations, people's homes and monthly visits to the NL Correctional Centre for Women in Clarenville, and we are a proud member of the Canadian Alliance for Sex Work Law Reform, a national alliance of sex workers and advocates that spans 30 groups across over 20 cities in Canada. SHOP is proud to have spearheaded the Living In Community model in St. John's, an innovative approach to community dialogue around sex work and the prevention of youth sexual exploitation that brings multiple stakeholders together, an important collaboration with our City, law enforcement, local businesses, residents, community non-profit organizations, and sex workers. We are currently involved in two national research projects, one through the Pierre Elliott Trudeau Foundation on national research and action to mobilize sex workers', and one through a partnership between the University of Calgary and Status of Women Councils in NL to both heighten the voices of sex workers from our province and share art-based exhibits created by sex workers in NL. We also participate in province-wide education and advocacy responding to ongoing media requests, and offering training on multiple topics related to sex work and human trafficking to nurses and healthcare professionals, child welfare workers, law enforcement, clergy, students studying in various departments at MUN, Crown prosecutors with Legal Aid, and staff and volunteers in front-line community organizations across St. John's. Furthermore, through our advocacy we have been recognized as the leading voice on sex workers' human rights in Atlantic Canada.

**We request that our City Council lift the moratorium on massage parlours – one important action that will continue the work to protect sex workers' human rights through decriminalizing consensual involvement in the sex trade, known as sex work.**

We are asking that St. John's City Council remove a moratorium which was created rapidly, without adequate consultation or contribution from those directly impacted – the very people working in massage parlours. The moratorium on massage parlour licenses was issued as a superficial response to stigma, fear, and discrimination against sex workers in our city. As a result, this moratorium has been an ineffective response to concerns of violence and sexual exploitation of both youth and adults in St. John's.

**In fact, what we know is that this moratorium acts as a form of criminalization, restricting the legal and regulated options for sex workers to work indoors, and instead increasing the unregulated sex work occurring in residential locations, pushing sex workers underground, into isolation and more vulnerable to exploitation and violence. We have heard from numerous sex workers in and outside of massage parlours that this moratorium has restricted their options, made them vulnerable to harassment and exploitation from**

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**landlords and neighbours, and allows people who do enact violence against women and sex workers greater access and power to do so.**

SHOP, alongside sex workers in our city and province, and internationally, adamantly condemn sexual exploitation of youth and adults, and human trafficking for the purpose of sexual exploitation. SHOP believes that sex workers are integral to working against sexual exploitation and human trafficking. We support relationship-building and meaningful consultation between sex working communities, government and law enforcement, which must be founded in trust and transparency.

Alternative to the belief that massage parlours are gateways to violence and exploitation – a belief that is often based in defining sex work and sexual exploitation as one and the same – we counter the concern that lifting the moratorium will create an environment for increased risk for sexual exploitation of youth or adults, or increased risk of human trafficking for the purpose of sexual exploitation. Across municipalities in Canada, there is no evidence that bans on permits like this moratorium act to quell exploitation or increase the safety and protections of sex workers. Both locally and historically, punitive laws and legislation instead push sex work underground and create the very conditions where sex workers and people at risk of being exploited have been targeted and victimized.

Finally, we support repealing the ban on massage parlour permits as an important first step towards sex workers in our City having access to both safe conditions and options within their work, and we would look forward to enacting more safe and supportive regulations around massage parlours. We have and continue to hear, time and again, from our sex working community that working indoors is inherently safer, provides diverse opportunities for choice, and increases their agency and control over working conditions. Sex workers who we have connected with in our city are overwhelmingly in favour of lifting the ban, ending this moratorium and want to be involved in the decisions that impact their day to day lives. We have an opportunity to work towards an innovative approach in St. John's and our province, that upholds and prioritizes the safety, protections and human rights of sex workers', and recommits to safer regulations guided by the ongoing expertise and consultation of the very communities they impact.

On behalf of SHOP, the St. John's Status of Women Council, and the hundreds of sex workers and women who we support in our city, we are asking that you repeal the moratorium that has been placed on massage parlour licenses, ownership, and movement in St. John's. Repealing this moratorium is a first step towards adequately supporting the safety and well-being of adult sex workers in our city, and in working towards a strengthened relationship between St. John's City Council and sex working communities in St. John's. Removing the moratorium is a powerful action affirming that sex workers are deserving of respect, labour rights, and access to safety in their employment, ultimately upholding sex workers' human rights in and across St. John's.

**Please see information included after this letter that make up a report including evidence-based research nationally and internationally, numerous letters of sex workers who live and work in our St. John's community, and specific recommendations from SHOP to St. John's City Council.**

Sincerely,

**Heather Jarvis**  
SHOP Program Coordinator  
St. John's Status of Women Council/Women's Centre  
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709.771.1077

# Research and Evidence on Sex Worker Safety: From Third Parties to Decriminalization

## Sex Work in Canada (2015)

By Cecilia Benoit & Leah Shumka

Conducted through the Centre for Addictions Research of BC, Professor, Department of Sociology, University of Victoria, Canada.

### ABOUT THIS STUDY:

This research was conducted to address the stereotyping of sex workers that goes on in the popular media and among people with little firsthand experience of sex work and its profound impact on the health, safety, and security of sex workers, as well as their friends and families, those who pay for their services, and those who play a managerial role in the sex industry. This study seeks to gain a comprehensive understanding of the sex industry across Canada, so as to help improve the social, cultural, and legal environments that shape the health and well-being of the people associated with the sex industry.

Available:

[http://www.understandingsexwork.ca/sites/default/files/uploads/2015%2005%2007%20Benoit%20%26%20Shumka%20Sex%20Work%20in%20Canada\\_1.pdf](http://www.understandingsexwork.ca/sites/default/files/uploads/2015%2005%2007%20Benoit%20%26%20Shumka%20Sex%20Work%20in%20Canada_1.pdf)

### Selected quotes:

"In the case of indoor workers:

- Canadian and international research has shown repeatedly that indoor workers are much less likely to experience violence than outdoor workers. While it depends greatly upon their specific work setting (e.g. home-based, massage parlour, strip club, or escort agency), studies report that anywhere from 60-80% of indoor workers report never experiencing any work-related violence." (pp 13-14)
- "Some indoor workers report that because they have less direct contact with police they can implement important safety strategies that are less available to street-level workers. These include:
  - o Taking money upfront and hiding it;
  - o Having friends, roommates, bodyguards, or managers on-site who can help ensure their safety and security;
  - o Opportunity to negotiate the terms of the transaction over the phone before the encounter to mediate any potential disputes;
  - o Greater opportunity to assess the clients character, either on-line, over the phone or at the door, or through a manager;
  - o Greater accountability if a client pays by credit card.
- Managed workers or those who work under a person who is hired to provide direction and coordination, including training, hiring, monitoring, disciplining, and setting workplace standards for sex workers, may be the most safe, especially in a decriminalized environment because, according to Abel and Fitzgerald, escort agency and massage parlour workers feel there are policies and laws in place to protect them, they are more confident that the police will respond to their complaints, and there is added security in the form of co-workers and cameras to ensure clients behave appropriately." (p 14)

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

# Upholding and promoting human rights, justice and access for migrant sex workers: Municipal Law and Migrant Sex Workers' Rights (2017)

By Tara Santini and Elene Lam

Conducted and funded by The Law Foundation of Ontario, Butterfly: Asian and Migrant Sex Workers Network, Chinese Canadian National Council Toronto Chapter, The Chinese and Southeast Asian Legal Clinic, St. Stephen's Community House

### ABOUT THIS DOCUMENT:

This document provides information and insight for legal, social, health, community, and other service providers to help develop their capacity to provide adequate, accessible and appropriate services to migrant sex workers. These documents were written and produced with the direct and meaningful participation of migrant sex workers, and reflect the autonomy, knowledge, skill, brilliance and expertise that migrant sex worker communities embody.

Available:

[https://docs.wixstatic.com/ugd/5bd754\\_3284af1908704da0935a4cf60e66abf3.pdf](https://docs.wixstatic.com/ugd/5bd754_3284af1908704da0935a4cf60e66abf3.pdf)

### **Selected quotes:**

“People are taught to think of sex work as a crime, a social nuisance, a social inequality, gender violence, sexual exploitation and human trafficking. These perspectives and assumptions do not reflect the realities of many sex workers. When providing services, it is essential to listen to the individual to understand how they experience their reality and what aspect of their circumstances they are looking to address.

Migrant sex workers' realities are unique and diverse. People make the decision to do sex work based on the range of options available to them. The scope of this range differs across individuals and communities depending on their level of privilege and access. Like other kinds of employment, people may do sex work for many different reasons, including generating income to provide for themselves and their families, and accessing the things they need and want.”

(p 5)

“Indoor workplaces increase migrant sex workers' capacity to control their environment, to implement health and safety practices, and to protect their human rights.”

(p 20)

“Migrant sex workers are concerned with their working conditions and identify the criminal, immigration and municipal prohibitions and enforcement practices related to sex work as key barriers to improving their working conditions and protecting their rights.

... Exploitative working conditions occur in many informal labour industries. The criminalization of some informal labour markets – like sex work – encourages over- regulation via criminal, immigration and other laws that isolate workers, maintain precarious working conditions, and exclude the application of labour protections that could address exploitations at work.”

(p 23)

# Beyond Pimps, Procurers, and Parasites: Mapping Third Parties in the Incall/Outcall Sex Industry (2013)

By Chris Bruckert and Tuulia Law

Conducted through the Social Sciences and Humanities Research Council of Canada (SSHRC), the Faculty of Social Sciences and Department of Criminology at the University of Ottawa,

### ABOUT THIS STUDY:

In recognizing the lack of evidence-based knowledge about third parties in the sex trade (who are neither clients nor sex workers), this report draws on data collected as part of a 3-year Canadian study entitled Rethinking Management in the Adult and Sex Industry Project to map and unpack the roles and relationships of third parties in the incall (services are provided in an establishment) and outcall (services are provided in a location selected by the client) sectors. Not only are these the largest sectors of the sex industry, but they are also subject to an astounding array of legal prohibitions that effectively criminalize all third parties regardless of their roles or the nature of their relationship to sex workers. This issue of third parties has become especially urgent in the current socio-political context in Canada as, in 2013 and the years that followed, national laws changed dramatically.

Available:

[http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20\(4\).pdf](http://www.nswp.org/sites/nswp.org/files/ManagementResearch%20(4).pdf)

### **Selected quotes:**

“A number of the participants (particularly in the Halifax focus group) spoke of incall/outcall sex work for a third party as an alternative to street-based sex work. According to Sweet, a sex worker in Halifax: “Some of my advantages of working for an escort service – number one, you didn’t have to stand on the corner [...] I could sit at home, wait for my call.”

... Like other sex workers who spoke positively about particular third parties, Sweet also told us, “It was a relationship. There was respect there, so that was a perk.” The idea of relationships extends to solidarity with other sex workers. Moxie spoke of “sisters working together” sharing information, supplies and protecting each other. This advantage is, of course, largely restricted to incall establishments. Alana, an Ottawa area sex worker, bemoaned that she “didn’t know any of the other girls who worked for the agency.”

While collegiality speaks to emotional wellbeing, other sex workers appreciated the security that working for a third party afforded them: “one security [measure] is [that]: ‘I’m not doing this at my place’ [...] That it’s in an apartment building gives me a certain sense of security, just because there is a lot of movement – there are people around”<sup>3</sup> (honey, Montréal). Whereas Honey valued the safety in numbers, others spoke of the significance of security protocols such as the ‘two-call’ and safety call procedures. For Sandra from Toronto it was not only about security but also the accompanying reduction of anxiety, “It’s absolutely safer, I think, when you’re working in a network of people. So I think safety and less stress.”

(p 26)

“Sex workers work for, with, or hire third parties for a variety of reasons. These third parties may:

- Provide the opportunity of working indoors which sex workers told us is safer, more pleasant (e.g., not standing in the cold) and less subject to criminalization and harassment;
- Provide an establishment that fosters a sense of community and workplace solidarity with others that is not available when working independently;
- Provide an environment where sex workers can learn about the industry from third parties and other workers;
- Take measures (e.g., screening, safe calls) that increase the safety and security of sex workers;
- Provide an environment made more secure by the presence of others;
- Establish rules and protocols that assist sex workers in their negotiations with clients;
- Assume responsibility for tasks that the sex worker may not wish to do, or for which they do not have the skill-set;

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- Assume legal liability so workers are not vulnerable to being charged as “keepers of a bawdy-house” under CC s. 210(1);
- Provide useful business (e.g., clients, booking) and security (e.g., drivers, security persons) services.

However, by no means do all third parties provide good services and operate in the interest of sex workers. As we will see throughout this report, sex workers told us of problematic policies and practices by third parties. For example, some labour practices are exploitative and some agency owners are less than transparent or ethical. What emerges is that, as is the case in any occupation, some bosses are good, some mediocre, some bad. These findings are consistent with those of other researchers who draw attention to the complexity and array of relationships sex workers have with third parties.”  
(pp 28-29)

“We feel strongly that sex workers must take the lead in determining the policies and laws that should govern their industry – not only are sex workers the experts but they are the people who will live the consequences of any regulatory regime most profoundly.”

(p 89)

# Sex work is not 'commercial sexual exploitation' (2014)

By SCOT-PEP

### ABOUT THIS RESOURCE:

SCOT-PEP is a registered charity dedicated to the promotion of sex workers' rights, safety, and health. Who has been involved in the campaign for sex workers' rights for over 20 years, from our roots in a research project on HIV and sex work, through two decades of service provision to sex workers in Edinburgh, to our current role as a campaigning organisation. We are members of the Global Network of Sex Work Projects (NSWP), International Committee on the Rights of Sex Workers in Europe (ICRSE), and the UK Network of Sex Work Projects (UKNSWP), and although our primary focus is on Scotland, we view ourselves as a proud and active member of the global movement for sex worker rights.

Available:

[http://www.scot-pep.org.uk/sites/default/files/reports/sw\\_is\\_not\\_cse\\_summary1.pdf](http://www.scot-pep.org.uk/sites/default/files/reports/sw_is_not_cse_summary1.pdf)

### Selected quotes:

"Sex work is often conflated with trafficking, and this conflation and the policies that result from it harm the rights and safety of migrants, sex workers, and migrant sex workers.

... A definition of sex work – as intrinsically a form of violence against women – creates and exacerbates serious harms to sex workers. This definition makes invisible the violence that sex workers themselves define, meaning there is no incentive to pursue policies that reduce that violence.

When sex workers object to the definition of sex work as violence, they are not denying that violence and exploitation are often present in sex workers' workplaces: no one knows that reality better than sex workers themselves. Criminalisation is a fertile ground for human rights abuses. But this conflation means there is no incentive to pursue policies that reduce the violence that sex workers themselves identify. If sex work is violence, and so is sexual assault, then disrupting a sex worker's workplace can be presented as 'tackling violence' in the same way that preventing or punishing sexual assault is. That's despite the fact that limiting or displacing a sex workers' ability to sell sexual services, or disrupting their workplaces, might force them to seek out unfamiliar or risky work venues, making them more vulnerable to violent individuals.

The definition provides political justification to push for policies that demonstrably increase violence against sex workers, as defined by sex workers themselves... It means that sex workers are systematically excluded from policy-making around sex work."

# Setting the record straight on protecting the human rights of sex workers (2015)

By Amnesty International - Canada

### ABOUT THIS STATEMENT:

In 2015 Amnesty International's International Council announced a resolution, and a forthcoming policy, on state obligations to respect, protect, and fulfil the human rights of sex workers, after recognizing the high rates of human rights abuses experienced globally by individuals who engage in sex work. Amnesty International identified that in line with the rights of individuals involved in sex work this position actively seek to promote women's rights, children's rights, Indigenous rights, LGBTI rights, the right to health, and the rights to live free from discrimination, violence, and trafficking (amongst other rights). In the Canadian context, Amnesty International Canada also acknowledged this was in support of their previously identified position working to end violence against Indigenous women and girls in Canada.

Available:

<https://www.amnesty.ca/blog/setting-the-record-straight-on-protecting-the-human-rights-of-sex-workers>

### **Selected quotes:**

"Those SELLING sex should be decriminalized in all circumstances so as to not further marginalize sex workers, who are often stigmatized and at risk of violence and other human rights violations. The BUYING of sex and ORGANIZATIONAL ASPECTS of sex work (i.e. security guards, drivers, receptionists) that do NOT involve trafficking, children, exploitation or violence should be decriminalized so as to make sure that sex workers can operate in safety and their human rights are protected.

... People who sell sexual services should be able to do so without fear of harassment, arrest or prosecution. These actions only serve to further marginalize sex workers and expose them to a far greater risk of violence and abuse. We also expect that when women, children and men who have been trafficked or sexually exploited know that they will not be criminalized, they will be more willing and able to assist police.

Sex workers must also be able to take measures to increase their own security. Such actions might include working with others, working in a brothel, or hiring a driver. Crimes like 'brothel keeping' or 'promotion' of sex work are often used to prosecute sex workers themselves, or to prevent them from taking actions that increase their safety, like working together. Instead of using 'catch all' offences like these ones, governments should focus their laws on criminalizing trafficking, violence, and coercion or exploitation in sex work."

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# Amnesty International Policy on State Obligations to Respect, Protect and Fulfil the Human Rights of Sex Workers (2016)

By Amnesty International

### ABOUT THIS POLICY:

In 2016 Amnesty International released a policy recognizing the high rates of human rights abuses experienced globally by individuals who engage in sex work, identified the most prominent barriers to sex workers' human rights, and underlined states' obligations to address them. The policy calls on all governments internationally to "decriminalize consensual sex work" after 500 delegates from 80 countries reviewed evidence and research and voted in favor of an initial recommendation to decriminalize. Amnesty International spent more than 2 years developing their policy to protect the human rights of sex workers, based on extensive work done by organizations such as World Health Organisation, UNAIDS, the UN Special Rapporteur on the Right to Health, other UN agencies, and the Global Alliance Against Traffic in Women. They also engaged in extensive and open consultation with sex worker groups, groups representing survivors of prostitution, organizations promoting criminalization, feminist and other women's rights representatives, LGBTI activists, anti-trafficking agencies, HIV/AIDS activists and many others.

Available:

<https://www.amnesty.org/download/Documents/POL3040622016ENGLISH.PDF>

### Selected quotes:

#### "CRIMINALIZATION and OTHER PENALTIES:

The primary and secondary evidence gathered by Amnesty International demonstrates that criminalization and penalization of sex work have a foreseeably negative impact on a range of human rights. These include: the rights to life, liberty, autonomy and security of person; the right to equality and non-discrimination; the right to be free from torture or cruel, inhuman or degrading treatment or punishment; the right to privacy; the right to the highest attainable standard of health; the right to information and education; the right to freedom of opinion and expression; the right to adequate housing; the right to just and favourable conditions of work; the right to family life and to found a family; and the right to remedy for human rights abuses.

...Where sex workers are required by law to operate alone and/or are prohibited from securing premises, their capacity to secure a safe working environment is greatly reduced. Laws against paying for consensual sex or organizing sex work have a detrimental impact on their ability to work and lead to the penalization of sex workers. Such laws regularly force sex workers to operate covertly and/or prohibit actions that sex workers take to manage their safety and, in doing so, violate sex workers' human rights."

(p 10)

"Labour and employment regulations: States can regulate sex work either via the general laws that apply to all businesses or employment practices, or through the introduction of regulations specific to sex work. Amnesty International does not take a position on whether states should formally recognize sex work as a form of work that requires regulation specific to sex work, nor does it take a position on the exact form such regulation should take... Such laws and regulations should not be applied in a way that conflates all sex work with violence and/or exploitation or acts as a de facto prohibition on sex work."

(p 13)

#### "REGULATION OF SEX WORK:

States have an obligation to ensure that all persons, including sex workers, have access to just and favourable conditions of work (which includes matters of safety) and are protected against exploitation, including those who are self-employed or who make their living in informal settings. There has been some movement at all levels – international, regional and national – to recognize that sex workers must be protected with relevant labour and employment guarantees even in the absence of explicit recognition by the state of sex work as an occupation and where sex work has not been decriminalized.

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Amnesty International does not take a position on the exact form that regulation of sex work should take, or whether it is necessary for such measures to be either within or apart from the general laws that broadly regulate other businesses or employment practices in a country. Rather, this should be determined in collaboration with sex workers and should comply with human rights standards.

Restrictions that would aim to limit sex work to the extent that it becomes impossible or risky or which prohibit sex workers from working together for safety – for example, by organizing collectively – would not be legitimate.”

(p 14)

“In the context of regulating sex work, states must:

- Respect and protect the right of sex workers to just and favourable conditions of work;
- Ensure that regulatory frameworks comply with international human rights law and that the safety and fulfilment of sex workers' human rights is the paramount objective for any such regulations;
- Ensure the meaningful participation of and consultation with sex workers, including those facing multiple forms of discrimination, in the development of any regulatory frameworks; and
- Recognize the rights of sex workers to associate and to form and/or join trade unions.”

(p 15)

# 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 (2012)

By the World Health Organization

## ABOUT THESE GUIDELINES:

The World Health Organization (WHO), in partnership with UNFPA, UNAIDS, and the Global Network of Sex Work Projects, developed new guidelines in 2012 aimed at better protecting sex workers from HIV and other sexually transmitted infections (STIs). Following consultations with a wide range of stakeholders, including national programme managers, researchers, sex workers' representatives, international organizations and development partners. The new WHO guidelines recommend that countries work towards decriminalization of sex work and urge countries to improve sex workers' access health services. They also outline a set of interventions to empower sex workers and emphasize that correct and consistent condom use can reduce transmission between female, male and transgender sex workers and their clients.

Available:

[https://www.who.int/hiv/mediacentre/feature\\_story/sti\\_guidelines/en/](https://www.who.int/hiv/mediacentre/feature_story/sti_guidelines/en/) and  
[http://apps.who.int/iris/bitstream/handle/10665/77745/9789241504744\\_eng.pdf?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/77745/9789241504744_eng.pdf?sequence=1)

## **Selected quotes:**

"Sex workers often find it difficult to access HIV and STI prevention and treatment services, even though many countries have effective programmes in place. Many sex workers fear the stigma, discrimination and, in some cases, violence they may encounter.

The new WHO guidelines recommend that countries work towards decriminalization of sex work and urge countries to improve sex workers' access health services. ... Evidence indicates that where sex workers are able to negotiate safer sex, HIV risk and vulnerability can be sharply reduced."

## **"Summary of Recommendations:**

1. All countries should work toward decriminalization of sex work and elimination of the unjust application of non-criminal laws and regulations against sex workers.
2. Governments should establish anti-discrimination and other rights-respecting laws to protect against discrimination and violence, and other violations of rights faced by sex workers in order to realize their human rights and reduce their vulnerability to HIV infection and the impact of AIDS. Anti-discrimination laws and regulations should guarantee sex workers' right to social, health and financial services.
3. Health services should be made available, accessible and acceptable to sex workers based on the principles of avoidance of stigma, non-discrimination and the right to health.
4. Violence against sex workers is a risk factor for HIV and must be prevented and addressed in partnership with sex workers and sex worker led organizations."

(p 8)

# Letters from St. John's Sex Workers Responding to the Massage Parlour Moratorium

SHOP presents the following letters from current and former sex workers in St. John's discussing the moratorium on massage parlour permits and massage parlour safety.

These individuals represent the diversity of the sex working community of our city as people who range in age from 18 to over 50 years old, cisgender and transgender, gender-variant and non-binary individuals, queer and bisexual people, single parents, people who are sober and who use drugs, and Indigenous voices.

## LETTER 1:

To Whom It May Concern,

I am a citizen of the City of St. John's and have been all of the 38 years of my life. In fact, I am very proud to be so. I have recently heard of issues concerning bans being forced on massage parlours throughout the City which are simply being placed, in my opinion, to cause difficulty for these businesses – such as difficulty in renewing licenses, where a business may be located, services offered, and employee rights. Personally, I find any of these hardships to be utterly irresponsible of the Labour Board. If it was any other typical business none of these issues would be a concern.

I have also been notified that anti-sex trade workers are also having a say in this. I personally was a sex-trade worker [on the street and indoors], approximately two years ago in a time of need. Though practically every girl working in this trade are labelled as drug addicts, there are many who do this to get by in life. It was the same aspect for us, we were encouraged not to work in certain areas (if at all), made to feel extremely low, and were constantly made to feel as if we were in the wrong. This is how the ban on various massage parlours in our city must feel - degraded, unworthy, and controlled.

No member of our City should be made to feel this way when they are simply trying to make a living for themselves. I am not ashamed of my past, but I am disgusted by how professionals are placing these labels on us. These people do not know others' living conditions and are only placing degrading issues by banning massage parlours.

I will certainly help in any way possible to speak up for these businesses.

– *Mother, friend, former sex trade worker*

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## LETTER 2:

To the Mayor,

The city should not have a ban or restriction on massage parlour permits. Massage parlours should be allowed in our city. I used to work at one and in my experience it was better working there than on the streets, out in the rain, in the wintertime, being picked on by men, and being penalized by the public. We need more permits available in our city.

There should be more places in St. John's or Mount Pearl that are safe for women to get off the streets, where they are able to do work safely indoors. Open up a place where women can work independently, this would help keep us off the street. There is safety in numbers when more people work together. I'd always rather work with someone else than by myself, it has always been safer. As far as I'm concerned, it's the City's responsibility to help keep people safe.

All kinds of massage parlours in other cities have staff designated to maintain everyone's safety, to protect and take care of the workers. Adults who are choosing to work aren't hurting anyone. I wish more people looked at the sex trade the way I see it. We're not hurting people.

To people who are worried about massage parlours being dangerous and violent, that's just not the case. I know this to be true because I've done this work. I've worked on the street and I've worked in massage parlours. I know the difference. I've been through it. Listen to my experience.

– ***Sincerely, former sex worker now 39, began sex work at 18***

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## LETTER 3:

To whom it may concern,

Having access to indoor workspaces is a fundamental key to providing safe resources for sex workers in our city and can be empowering to workers who would like to have their own space. Enforcing a moratorium puts us in potentially unsafe situations and allows a greater potential for street-based exploitation.

### 1) Safety in numbers:

When we work at a shared indoor location we have the security of having other workers in the general vicinity. We are our own security. Undoubtedly, it is easier to enforce our own security in a space that we own and control than in a public space or the personal space of a client.

### 2) Familiarity:

We know the layout. We know the neighbourhood. Being familiar with our work space allows us to have the ability to remove ourselves from potentially dangerous situations much more easily than if we were working in an unfamiliar environment.

### 3) Collective experience and expertise:

We learn from each other and support each other. Our network is strong and when we have other sex workers in the same workspace we are able to learn and grow for the experiences and expertise of those who may have already dealt with a particular situation. The knowledge and wisdom that is shared between us empowers us. There is safety in wisdom.

Personally, I have had over a decade of experience working at a few massage parlours and can honestly say that I have felt safer, more empowered, and better able to assert boundaries when dealing with clients while in these parlours. For the most part, when a client visits me on "my turf", they tend to be more respectful and aware of my limits than when I have encountered clients on the street.

Certainly, there are issues in any workplace. We are not perfect. No workspace is. But being allowed to have that space in the first place is the initial step in providing a safer environment for all sex workers. Giving us the option to move indoors or change locations, just like any other business, is a fundamental need.

– ***St. John's sex worker and former massage parlour manager***

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

## LETTER 4:

To our St. John's City Council and Mayor,

I'm thankful the City of St. John's is considering lifting the moratorium on massage parlours. The moratorium on permits should be lifted. Sex workers need more options for safe indoor places to work.

When the moratorium was put into place in 2015 it left us in the hands of three license holders and left these businesses tethered to the addresses of each of the licenses, which means nobody can move their business. We once had three separately owned massage parlours in our city and now have only two owners. A decrease in options is always a problem. It gives the business owners a monopoly and an opportunity to take advantage of people who have limited indoor options. Add to that the inability to move addresses, and this leaves us vulnerable to landlords and neighbours.

Landlords could use the treat of eviction whenever they felt necessary. Neighbours knew about a sex-related business and complained to the media. Their complaint wasn't valid and didn't match the situation. Yes, the business is adult, but it is still a business operating within the city, provincial, and federal laws.

I'd like our City to avoid giving weight to things that aren't facts. All the ways that massage parlours are discussed as if they 'open up space for exploitation' is fear-based stigma and it has an impact on us. Instead, I would like City Council to speak to the workers themselves and to consider massage parlours as businesses. Take a positive perspective when considering who the ideal candidates are to own and operate them. Our city has incredible respectful business-minded people and feminist entrepreneurs that could increase the safety of indoor sex work.

We want fair regulations. There are regulations for places that serve/sell alcohol, cannabis, tobacco, that host/profit from VLTs, there are regulations placed on strip clubs. Why not massage parlors? What all these places have in common is their adult themes. One must be of legal age to participate, as an employee or patron of such establishments.

Please understand that I'm not saying sexual exploitation does not exist. It does and it is very real, as real as workplace violence, sexual assault, and domestic abuse just to name a few. These are serious matters that should be taken to the police. I am writing this from the point of view of a woman who chooses and consents to working in the sex industry.

Lifting the ban on massage parlor permits will give power back to the workers. It will give them a choice of location and owner. It will allow for feminists and or seasoned veterans of the industry to become owners/operators of massage parlors. Normalizing sex-based businesses to the point that we normalize alcohol, tobacco, cannabis, gambling will help to destigmatize them, the workers and the patrons.

Sex work is work. Give us a place to work.

– ***Rachel, has worked in the sex industry for 10 years***

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

### LETTER 5:

To Whom it May Concern,

The issue of no new licenses for massage parlours being created in the City of St. John's has many consequences that you may be unaware of. The first and most important consequence is on safety. Right now, I know of several individuals who are working 'on the street' that would kill for a position in a safe working environment.

Being in a safe work environment, to a working individual, means everything. Because that's what sex work is: it's work, a job, an occupation. In the process of trying to prevent sex trafficking, which I wholeheartedly agree is a terrible issue, you are hurting the individuals who are choosing this occupation in ways you can't even – and don't want to – imagine.

Yes, there is sex trafficking here, it is in every single highly populated place on earth. But let me make it clear, the vast majority of sex workers in this city choose this job for our own reasons, and are not being forced into this work. I don't have a gun to my head as I'm writing this. I'm a mother. I'm a published writer. I'm a spouse. I'm a sex worker. I should have the right to choose a safe work environment.

Thank you for your time.

– *D, Qualipu First Nation, mother, writer, working as an escort for several years*

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

### LETTER 6:

To whom it may concern at City Council,

I write in regards to the moratorium on massage parlours in St John's. I have been a sex worker in St John's for 4 years. Currently I work on my own but I have worked in a massage parlour in the past. I've also worked in restaurant kitchens, call centers, retail shops, construction, and security, been a university student, a college student and a 40 year old student of life. Of all the jobs I've had the single best, hands down, has been working on my own as a sex worker. Everything else from the massage parlour to the construction work has all been the same. It is in that sense that I'd like to address this moratorium.

I have come to notice the argument for the moratorium breaks down into several things. First that you are being taken advantage of, "selling your body" as they say. Well I can tell you, while working in a massage parlour I didn't feel any more taken advantage of then when I worked in a restaurant, or certainly a call center. In fact, I felt more like an actual human being while at the parlour. What sort of dignity is there in working 60+ hours a week at minimum wage in dangerous conditions (deep fryers on top of wet floors next to the grill) for less than 1% of the profit off your labour so someone else can make the other 99%. Many people are exploited in this way. If you want to put a moratorium on massage parlours because they don't get treated fairly at work then I propose a moratorium on all restaurants, retail, construction, gas stations... you get the idea. If the exploitation of people's labour is the reason for the moratorium then, if you are going to be fair, we need to look at many other jobs and professions as well.

Another issue is women being taken advantage of in the sex industry. Well, women get taken advantage of in every workplace. Harassment happens walking down the street. You know this. There isn't a higher percentage of women being taken advantage of in the sex industry because it's the sex industry. It's because predators know they can take advantage of people that not only society shuns but even their government's stance is that they shouldn't exist. This is the real exploitation. Government, not-for profit groups, etc pushing women further into the jaws of predators while blaming them for not being able to keep from being bitten. Lift the moratorium, regulate it, police it and give women a safe place to work. This is the only humane solution. Which leads me to my final issue.

It seems the final issue is, unfortunately, moralizing of sex. Quite frankly, I believe this is what it all boils down too. It is the stigma of sex foisted upon those who work with sex that causes so much consternation toward these parlours. Stigma is circular. A group of citizens say they have a problem with another group. When the government's answer is to shun those people that drives the stigma deeper. That is not what government is for. It is there for all people. The answer is supposed to be that sex workers are citizens of this city as well. Of course, we can work out an agreement but they add to the economy, they pay taxes, and they provide a service that thousands of people avail of. To make criminals or pariah's out of thousands of people in this city for doing something someone feels is 'icky' is the real moral failing here.

Government is a group of elected leaders. Leaders should lead. We have come far in the progressive battle to be better people. The fight to unite people never ends because the forces dividing us are the demons of our human nature. Government needs to end this moratorium and explain to people that it is not right to send a group of people into the darkness where danger is. It is the essence of civilization to bring everyone into the light and keep them safe.

– *Anonymous sex worker, aged 40, began escorting at 35*

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

### LETTER 7:

A message on massage parlours:

I worked in a massage parlour on Queens Street about ten years ago. We used to work day shifts and night shifts, and men may be coming from other businesses or, and they would want some pleasure and company before they went home. It wasn't the best place to work. We need to be careful that the men who own massage parlours aren't using it to have control and become pimps in a way. But it doesn't have to be that way. The most important thing is to listen to us, the women who are working.

I don't think there should be a ban on massage parlours. If massage parlours can't exist people would have to hide and run businesses out of their own home without a license or permit because the City doesn't allow that. If you continue the ban or shut them down you're going to force people on to the street – it's that simple.

When you work in a massage parlour and you do a shift late at night, you should never be by yourself because it becomes a safety issue. If people can work together, you can help keep each other safe. We're gonna work but we can try to never work alone, we can try to have cameras for our security, and have places where workers are making and keeping more of the money because they are the ones who are doing the work. There should be more parlours or licenses for us because there should be more indoor spaces for us to work. A lot of women are working online now and working from their homes because indoors is always safer.

Safety issues should be based on regulations for the workplace. It should be a safe place to work, with good electricity and plumbing, it shouldn't be a rundown building, you know. The City can't walk into any business and shut them down or make up new rules and they shouldn't be able to do that for massage parlours either. This should be treated like any other business – like a restaurant or a corner store. Make sure they get regular health and safety checks and workers have a way to talk about the place they work honestly.

We need honest to goodness people to help women stay off the street and provide them with a good income for their work. I now work independently and I know how to play the game safe, I'm trustworthy, I don't put myself in harm's way. I try to help other women be safe when they're outside and I want that for all of us.

– *L, in her 50s, now working independently*

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

## LETTER 8:

To whom it may concern,

Five minutes after meeting each other, we both knew our lives would never be the same. That our connection has been so powerful and transformative is the stuff of a romance novel. That we met as coworkers in a massage parlour is what elevates our story to a separate realm of unlikely love. And yet, still, in 2018, we cannot openly divulge that this was so.

We are a passionate couple, devoted to one another and totally in love. We experience emotion for each other like we have never known, and we try to radiate the positivity we share to everyone around us. We co-parent a beautiful child, and teach them the virtues of equality and acceptance that we wish to see in our world. We are proud volunteers, unlikely activists, strong friends, colleagues, relatives. And yet we cannot sign our real names to this letter.

The ludicrous and archaic laws governing our work have left us afraid to tell even our closest confidantes how we feed our family and put our child through swimming lessons. We are forced to limit our presence to pseudonymous advertising in quiet corners of the Internet, where we might find the most modest forms of acceptance through apathy. We risk harm every day at work, lacking the certainty of safe conditions and consistent security that would better enable us to fulfill the dreams we share for our future. Our pride is stymied every time we lie about our careers, or risk arrest or questioning for taking ourselves above ground when we find our presence driven under.

We know our social circle to be progressive and accepting: we are a lesbian couple - one transgender, one cisgender - who live openly, colorfully, and with tremendous support from those who surround us. But the current legal and cultural climates have silenced us in openly expressing one of the central elements of our relationship, and have placed us in danger every time our work gives us the security of buying new clothes or paying for heat in a Canadian winter. This is a paradox that would have made Orwell proud: we, who have gained so much through acceptance of our unique life together, stand to lose everything if the comprehension were truly total.

And yet there is no pressure to deliver us from this science-fiction future. The laws still stagnate, and the name of our meeting place, like much else, still passes judgmental lips with the usual mixture of snide prudishness and schoolyard derision. We watch as our friends who "work the hill" shake nightly, wondering whether their evening might feature violence or arrest or both. In some ways we've had it easy, but in every way, no one in this industry does. Governments aren't responding. People in power aren't listening. We're still scared.

The more misapprehension we permit, the slower change will come. Perhaps by writing this, and by speaking with whatever volume we find possible, we can join the thousands of other voices across Canada - as much of the world - trying to advance our profession into something like this millennium. If we fail, we'll try again, and we'll still be here, just like always. But the closer we come to being able to openly divulge how we support our family, the better. With that comes openness and security and so much of what we and our friends need, and with it comes a happiness we have sought since the first day we set eyes on each other.

We are strong. We fight for what we know is necessary. We are in love. We are sex workers. And we wait with bated breath for the day when we can sign our real names to this letter. Until then, we remain,

– *Sex working couple*

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

## LETTER 9:

Hello City Council,

I am not in favour of the moratorium on massage parlours. I've been a sex worker ever since I turned 18, and have been working for the largest parlour company in the city within the last year. I am vulnerable in several ways based on my identity. I feel I am worse off without more options for my workplace. Due to a lack of opportunity in my parlours, I have to accept more clients independently (partially outside of my own comfort), and I have to do it in secret. If my boss knew, I would be fired. However, I am not just writing to provide you with my own personal experiences regarding my options. I have opinions and insight on the industry that would be valuable to the decision regarding the moratorium.

In a lot of larger cities, stringent screening processes are often conducted by sex workers to verify the identities of their clients. This is possible in the environment of the parlour, and the owner has the opportunity to set a positive precedent for the entire city. He will not, however, as he currently has no competition for safety procedures. It is too much to risk his clientele in order to improve conditions for his workers. Since it is currently one of the safest ways to work in this city, many of my coworkers have no better option. He holds a monopoly on the entire industry, running the most popular local advertising website, and the most successful company. By not allowing more parlours to open, it enables one man to have disproportionate control over our work. Any work to improve parlour conditions has been done at the expense of the workers there, with not much compensation. For any other industry, this would be unacceptable. Supporting this monopoly is a poor decision to protect our workers.

There have been concerns over underage workers and sex trafficking in parlours. To address the first, I am younger, I know I have been screened for my age. There are no underage workers I've seen or known of at my parlour company. Moreover, parlour owners have no benefit in hiring underage people, as it puts their business at risk. So, while underage workers are an issue, it is really an issue to be tackled with better social services for youth. As for the second, I wouldn't consider people who have a stable working environment at high risk for trafficking. People are often targeted for trafficking are in a place of instability. People who are working regular shifts in a somewhat supported environment, surrounded by peers, are not the ideal victims for traffickers. People who are vulnerable, working independently, underground, and especially on the street, are at a higher risk of facing violence and trafficking. Currently, the limit in massage parlours means more individual workers cannot move their work into more stable environments, and the moratorium supports this imbalance in the industry.

Sex work and sex trafficking are not equivalent, and must be treated as related but separate issues, both socially and in regulation. That being said, many people working in the parlour are being exploited domestically. I think this speaks volumes to the way our system neglects and disappoints gender minorities, rather than the nature of sex work itself.

Issues surrounding drugs in the parlours have been raised. It is a real issue. My opinion is that drugs exist everywhere, you can't fire someone for just being an addict. In our business, drug issues are more overt, due to the fact that our workplace is essentially anarchy, driven by gossip and stigma, rather than good work practices. I think that the people creating laws surrounding sex work have neglected to truly research their impact. I think it has been commonplace to use these problems as ammunition to attempt to shut the sex work industry (and the drug industry, really) down as a whole. This doesn't work. Sex work has existed since the beginning of time. The only way to counter these issues is to fully acknowledge them, understand the economy of the industry, and address the culture that enables it through thoughtful law-making and stronger labour protections.

## Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

I understand that much of the input in support of the moratorium has come from people worried about youth, their local communities and neighborhoods. I think this is a zoning issue more than anything, and it's irresponsible to allow stigma from any of these people to get in the way of the health of vulnerable people working in this industry.

Abuse at the hands of clients is very problematic. I have been assaulted by men while working. There is no secret that sex workers are not necessarily respected by all of those hiring them. I think perpetuating this idea that sex work is an illegitimate industry (due to attempting to quell the industry with brute force, rather than properly regulating it) reinforces these cultural paradigms. So, while treating the industry with respect doesn't have immediate impact, I think it's important to account for the long-term ramifications of the way our leaders view us. I'd also like to note I've been assaulted by men outside of work at a very similar ratio. It is not sex work that makes me someone who has experienced abuse and assault, it's my gender, it's a cultural environment, and it's stigma.

Sex work is a livelihood as anything else is. I go home to my family at the end of the day, saving money for an education. My friends use their money to care for their friends, pets, and parents. Many people at work are going home to their babies, husbands, and relatives. The balance of this industry impacts real people, who are putting food on the table, just like everyone else. I think a stronger effort should be made to access the people who have relevant opinions and information on this issue. I have the privilege to be involved with SHOP, to have the knowledge and resources to tell you what I know and think. Not everyone does. Value hides in the darkest corners of our communities, people who are not willing or able to speak on the matters. SHOP has worked hard to access and communicate with us and have done amazing work. That being said, this is also the job of governments, as a part of democracy. So please put your efforts in hearing from more people.

*– Sincerely, a current massage parlour worker*

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

## LETTER 10:

A conversation between massage parlour workers:

Person 1: What's it like working in a parlour?

Person 2: Well, I can actually make a living off of this [at the parlour]. I used to work like 40 hours a week in fast food and retail and I could hardly make ends meet. Now I work part time and I have money to spare. I can buy the things I want, and I can buy the things that I need. I don't have to scrape together dollars and I don't ever have to worry about paying bills because I can. I'm actually financially secure for the first time in my life and I actually like going into work because it's not miserable and I don't hate things there, things are actually pretty good all things considered.

Obviously, there are issues with parlours but in comparison with other places I've worked its actually heaven. I kid you not! Working in fast food was the worst ever. For what? 10 dollars a hour? To get yelled at by people all day long and come home basically suicidal? I've never felt like that working at the parlour. Even though bad shit happens, but bad shit happens at every job.

In terms of the moratorium, I think lifting it is important. We need options. When you limit us to three parlours, several owned by the same person... he can make the conditions as shitty as he wants, there's no competition.

I like it, I quite enjoy it [working in the parlour]. It's fun, its entertaining, I get some good laughs out of it. It's very relaxed and chill in comparison to any other job it's not high stress for me, my brain can handle it, it works. People are nice to you there, that's a plus, in terms of clients, generally, I'd say 80% of clients I see. Some are tools. That's just men.

Person 1: Would lifting the moratorium, having more massage parlours, doing anything for percentage of nice men?

Person 2: Honestly not quite sure... maybe? For the sole reason that the nicer ones might go to a nicer parlour.

Person 1: If the moratorium lifted, would we want regulation? Standard for STI testing, healthcare, drug use, anti-discrimination, information on resources, rules?

Person 2: There should be standards. In terms of health and safety, I don't think it's taken as seriously as it should.

Person 1: Construction jobs, they have rules such as hard hats and steel toe boots.

Person 2: Exactly, we need rules similar to that, ones conducive to our job.

Person 1: If we did have rules about our health and safety, they'd need to come from us and our perspective. They can't just be assumed. Fairly sure the construction workers have a say in what they need, their rules that impact them. The same way, sex workers need to be the ones making the rules about what happens with sex work.

– *Two workers, part of the LGBTQI community*

## LETTER 11:

A Legal Perspective from a Former St. John's Sex Worker (*attached*)

Page 1 of 8

### On the St. John's Adult Massage Parlour Moratorium: A Legal Perspective from a Former St. John's Sex Worker

AJK

#### Introduction

Every year on December 17th, for 15 years now, women just like me gather to acknowledge and honour the sex workers and allies who are victims of violence in our society. We reflect on the issues pertaining to our access to justice, the protection of our human rights, and the ongoing struggle we face to recognize, redefine, and destigmatize our lives. December 17th: The International Day to End Violence Against Sex Workers.

It's kind of ironic isn't?

We have a day to end violence against a marginalized group of individuals in our society, and yet we continue to debate the validity of their work (yes, real work) that has already been declared by the Supreme Court of Canada to be not illegal.

Read that again.

The Supreme Court of Canada, the highest court in our entire nation, has decriminalized sex work. Some of the most accomplished, educated, rational and highly intelligent people in our country has already determined that sex work is not a crime. And yet here we are debating whether or not we will offer these workers a safe space to work their very legitimate jobs.

... Seriously?

#### The History

The *Canadian Charter of Rights and Freedoms* is the very first part of the *Constitution Act, 1982*. It exists, in part, to guarantee and protect certain political rights of Canadian citizens and civil rights of everyone in Canada from the policies, legislation, and other actions of all areas and levels of government.

Did you catch that, City of St. John's?

The *Charter of Rights and Freedoms* applies to **all government laws and actions**, including the laws and actions of federal, provincial, and **municipal** governments.

Huh, imagine that.

As per the *Canadian Charter of Rights and Freedoms (1982)*:

Section 1. "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

Section 7. "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

## **Bedford and Bill C-36**

The decision to decriminalize "prostitution" or sex work in *Bedford v. Canada* was a monumental victory for those of us in the sex work community. The premise of the *Bedford* case was the argument that three provisions in the Criminal Code of Canada which criminalized aspects of sex work in fact violated sex workers' constitutional right to security of the person.

From the decision of the court written by the Chief Justice:

"The prohibitions at issue do not merely impose conditions on how prostitutes (sic) operate. They go a critical step further, by imposing dangerous conditions on prostitution; they prevent people engaged in a risky – but legal – activity from taking steps to protect themselves from the risk." (para 60)

After the *Bedford* decision came the introduction (in 2014) of Bill C-36, more formally called the *Protection of Communities and Exploited Persons Act*. This was an act to amend the Criminal Code of Canada in response to the decision by the Supreme Court.

The purpose of Bill C-36 has been described as an attempt to protect the dignity and equality of women who are engaged in sex work, to protect communities and children (see: public nuisance), and to reduce the demand for sexual services. All of these issues are a part of a larger theme to reduce the occurrence and impact of sexual exploitation and human sex trafficking, which I think we all agree are detrimental to the individual and their community.

But what is sexual exploitation and where does sex work fit into all of this?

## **The Language of Sex**

One of the underlying issues at play here is the perceived amalgamation of sex work and sexual exploitation under the larger umbrella label of "the sex trade". But let us be completely clear here: sex work and sexual exploitation are not the same thing and can absolutely be mutually exclusive.

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

Sexual exploitation is listed in the Criminal Code as follows:

153 (1) Every person commits an offence who is in a position of trust or authority towards a young person, who is a person with whom the young person is in a relationship of dependency or who is in a relationship with a young person that is exploitative of the young person, and who

- (a) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person; or
- (b) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person.

The table below differentiates some of the features of an individual who is positively engaged in sex work contrasted with the features of an individual who is being sexually exploited.

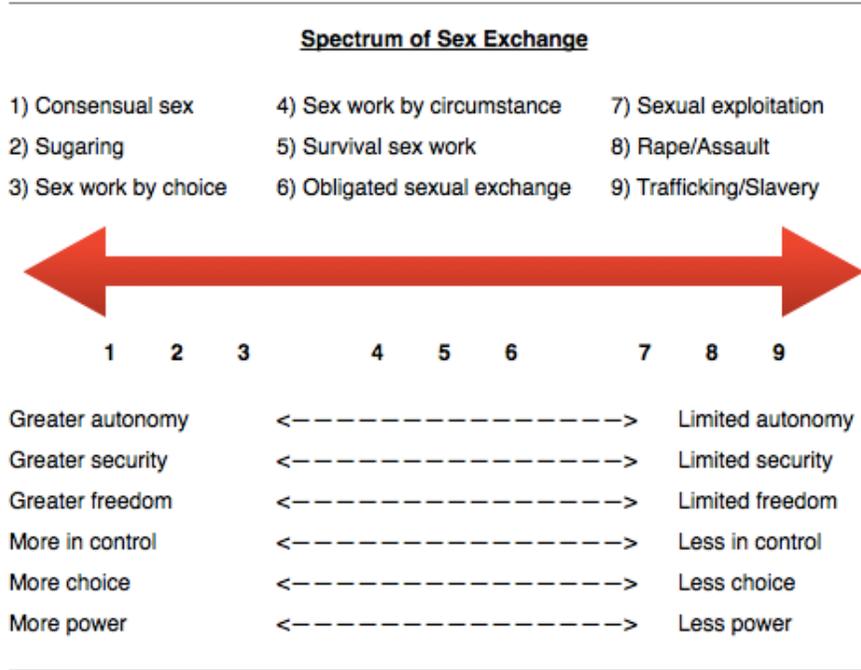
<b>A Person Who Does Sex Work</b>	<b>A Person Who Is Being Sexually Exploited</b>
Adult over the age of consent (18)	Can be any age
Involves consent	Does not need to involve consent
By choice or circumstance	By circumstance or influence
Independence	Dependence
More power	Less power
More autonomy	Less autonomy
More choice	Less choice
More security	Less security
More freedom	Less freedom
More flexibility	Less flexibility
Positively engaged in the "sex industry"	Negatively engaged in the "sex industry"
Sex work is decriminalized	Sexual exploitation is illegal

There are some pretty clear differences.

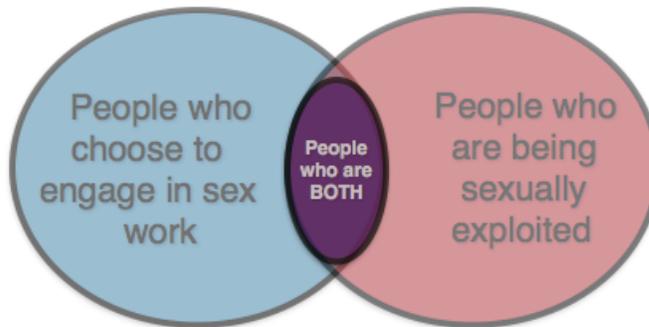
And while it is important to distinguish between sex work and sexual exploitation, it is also important to remember that the position of an individual on the spectrum of sexual exchange at any given time can be fluid.

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

One interpretation of the Spectrum of Sex Exchange is given here:



Certainly, there can be people who are both sex working individuals and also individuals who are being exploited. This intersectionality can be illustrated in a Venn diagram, as per below.



The position of an individual on the spectrum (or in the circles) at any given time can be situational and the position of any one person on the spectrum (or in the circles) may change depending on the circumstances of any particular moment. We are humans. We are not perfect and we change depending on our circumstances.

## **The Issues**

When we discuss the issue of the moratorium on adult massage parlour permits in St. John's, what is the real issue we are debating? Better yet: what is the purpose of such a moratorium in the first place?

We are told, as a community, that the moratorium on adult massage parlours is to keep us (sex workers) safe and free from exploitation. We are told that we must limit the number of massage parlours to prevent sexual exploitation and human trafficking. We are told that we are not safe when we work indoors.

Wait... what? According to whom?

## **The Reality**

In Bedford, the application judge found that "on a balance of probabilities, the safest form of prostitution is working independently from a fixed location". (para. 300) The judge also concluded that indoor sex work is far less dangerous than street level based sex work "a finding that the evidence amply supports" and that "out-call work is not as safe as in-call work".

This moratorium on massage parlour permits forces sex workers to work alone, to be less visible, and to forego protective mechanisms. This prevents sex workers from "having a regular clientele and from setting up indoor safeguards... which would reduce risks". (application decision, para. 421)

The massage parlour moratorium increases reliance on pimps and booking agents, which in turn, leads to sex workers having greater exposure to potentially exploitative relationships and behaviours. It also "interferes with provision of health checks and preventative health measures".

Preventing sex workers from having access to indoor locations also prevents sex workers from safe screening protocols and setting terms for the use of condoms and other safe guards.

All of these issues further aggravate the risk of disease, violence, and death in an already marginalized and vulnerable population which is disproportionately made up of people of marginalized genders, people of aboriginal and indigenous heritage, members

of the 2SLGBTQ+ community, and former survivors of gender-based and intimate partner violence. In this way, a moratorium on adult massage parlour permits in St. John's, NL is merely a continuation of the normative institutional and state violence against sex workers that we have already seen for years now.

## Back to the Charter

As per the *Canadian Charter of Rights and Freedoms (1982)*:

Section 1. "The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."

Section 7. "Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice."

## Principles to Consider

In examining the decision of the Supreme Court in *Bedford*, we are given three principles for interpreting the constitutionality of a law: arbitrariness, overbreadth, and gross disproportionality.

**Arbitrariness** asks whether there is a direct connection between the purpose of the law and the impugned effect on the individual, in the sense that the effect on the individual bears some relation to the law's purpose. (SCC 2013, par. 111.)

**Overbreadth** deals with a law that is so broad in scope that it includes some conduct that bears no relation to its purpose. In this sense, the law is arbitrary. (SCC 2013, par. 112.)

**Gross disproportionality** asks whether the law's effects on life, liberty or security of the person are so grossly disproportionate to its purposes that they cannot rationally be supported. Under s. 7 of the Charter, it does not consider the beneficial effects of the law for society — it balances the negative effect on the individual against the purpose of the law, not against societal benefit that might flow from the law. (SCC 2013, par. 120–121.)

## Violation of s. 7

From the Supreme Court of Canada decision in *Bedford*, re: the section 7 violation:

"The prohibitions all heighten the risks the applicants face in prostitution — itself a legal activity. They do not merely impose conditions on how prostitutes operate. They go a critical step further, by imposing dangerous conditions on

prostitution; they prevent people engaged in a risky —but legal — activity from taking steps to protect themselves from the risks.”

“The violence of a john does not diminish the role of the state in making a prostitute more vulnerable to that violence.”

“The question under s. 7 is whether anyone’s life, liberty or security of the person has been denied by a law that is inherently bad; a grossly disproportionate, over broad, or arbitrary effect on one person is sufficient to establish a breach of s. 7.”

## Conclusion

The current moratorium on massage parlours in St. John’s, NL harms sex workers by partially preventing them from “working in safer fixed indoor locations”, “screening potential clients for intoxication and propensity to violence”, and “taking measures that would increase their safety, and possibly save their lives.” These negative effects of the moratorium are not outweighed by the premise of saving sex workers from exploitative relationships, and reducing the rare neighbourhood nuisance complaint.

**Arbitrariness** — The massage parlour moratorium is arbitrary in that it increases sex worker reliance on pimps and booking agents without access to a safe indoor location.

**Gross disproportionality** — The negative impact of the massage parlour moratorium on sex workers’ security of the person is grossly disproportionate to its objective of reducing sexual exploitation and human trafficking in our city.

**Overbreadth** — Laws like this prevent people (sex workers) who are engaged in a legal and non-exploitative activity (sex work) from taking steps to protect themselves from the risks, which makes it overbroad.

As illustrated, the massage parlour moratorium is arbitrary, grossly disproportionate, overbroad. It infringes upon rights granted in s. 7 of the *Charter of Rights and Freedoms* and cannot be saved under s. 1.

This moratorium is unconstitutional.

It is time for the ban on adult massage parlour permits to be lifted.

This is the only logical answer.

Let us make this change.

The time is now.

The sex workers have spoken.

# Lifting the Ban: Recommendations to Protect Sex Workers' Human Rights

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## An Appeal

Dear City of St. John's Council Members,

It is time to drop the moratorium on permits for adult massage parlours. This continued moratorium is unconstitutional in that it violates the s. 7 rights of individuals who engage in sex work by depriving us of our right to security of the person, as protected in the *Canadian Charter of Rights and Freedoms* and confirmed in the unanimous decision of the Supreme Court of Canada in the *Bedford* case.

As an individual with over a decade of lived experience in the St. John's sex industry, with real experience in multiple local massage parlours, and with real experience managing a massage parlour, I ask you to consider this moratorium debate through the lens of honest experience and rational thinking. We know what we need. And we know what doesn't work.

This December 17th, on the International Day to End Violence Against Sex Workers, consider making the change that will help us to move in the right direction.

The time for change is now.

Sincerely,

AJK

Sex Worker of St. John's (2008 — 2018)

Massage Parlour Manager (2013 — 2018)

Dated: December 6, 2018

## S.H.O.P. Recommendations for City Council

### 1. ENSURE CITY STAFF AND CITY COUNCIL UNDERSTAND THE DIFFERENCE BETWEEN CHILD AND YOUTH SEXUAL EXPLOITATION AND ADULT SEX WORK

- Recognize sex work is defined by consent, by adult age, and by self-determination and agency.
- Distinguish between cases of forced labour, sexual exploitation, sex work and sex workers' experiences of workplace violence in all discussions, policies and regulations regarding the sex trade.
- Recognize that sex workers are strong allies in combatting sexual exploitation and human trafficking, and their meaningful participation is essential in achieving community safety.

### 2. CONSULT WITH ADULT SEX WORKERS

- Recognize that sex workers are diverse and many are survivors of violence who exist in neighbourhoods across St. John's, and sex workers are voting constituents with concerns and needs that should be taken seriously by City staff and representatives.
- Recognize the importance and value of evidence-based research on sex worker safety, labour protections, and human rights. Consult existing national and international sound research.
- Increase collaboration with organizations/groups that work directly with people engaging in sex work, recognizing that sex workers and sex workers rights organizations are best placed to provide insight and leadership for legislation that targets sex work, and also best placed to provide evidence-based direction on legislative and regulatory regimes that comply with human rights legislation and that are supported by evidence-based research.

### 3. SUPPORT MUNICIPAL APPROACHES THAT PROTECT AND UPHOLD SEX WORKERS' LABOUR AND HUMAN RIGHTS

- Should City Council be able, commit to reviewing and updating municipal bylaws and regulations under your purview on adult erotic services and indoor sex work in direct consultation with adult sex workers and their advocates. Know that many of the existing municipal acts that already guide the lives of residents in the City of St. John's, such as traffic, noise, zoning, operational hours, and businesses that sell adult products or services, can be applied to create an innovative St. John's specific approach.
- Continue to your vital participation and support Living In Community, a unique approach to community dialogue around sex work and the prevention of youth sexual exploitation that brings multiple stakeholders together, an important collaboration with our City, law enforcement, local businesses, residents, community non-profit organizations, and sex workers.
- Recognize that lifting the moratorium on massage parlour permits is only one step to address the human rights of sex workers in St. John's, and that municipal and legislative reform must be accompanied by a holistic set of measures to address health, poverty, housing and labour supports, education, and municipal services.