



# PROSTITUTION



Prostitution is inherently exploitative, and disproportionately impacts women and girls. Governments have a duty to combat this exploitation. Legalizing and regulating prostitution cannot achieve this. Instead, governments should seek to abolish prostitution to the greatest extent possible.

Nineteenth-century English philosopher John Stuart Mill once famously posited that “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”<sup>1</sup>

Mill’s harm principle suggests that government should play a limited role in regulating society or prescribing morals for its citizens. Following this conception of the role of government, some feminists and sex workers claim that prostitution – the purchase and sale of sex – should be legalized or decriminalized. They ask why the government should care what happens in the bedrooms of the nation between two consenting adults. Where is the harm?

We – and many women and girls who have been involved in prostitution – disagree with this framing of prostitution as the mutually beneficial exchange of sex for money. Prostitution is harmful.

In this report, we briefly examine the history of Canadian law in this area, describe how prostitution is inherently exploitative, and defend Canada’s current law, which seeks to abolish prostitution by targeting demand. We also recommend ways to improve enforcement and implementation of current laws in order to help women exit the commercial sex trade and to help shift cultural attitudes around prostitution.

## History of Canada’s Prostitution Laws

Prior to 2014, the sale and purchase of sex by adults was not a crime in Canada. Almost every related activity, however, was a crime: keeping, visiting, or working in a “bawdy house” or brothel, “streetwalking,” “procuring” persons for prostitution, “living on the avails of” prostitution, and communicating in public for the purpose of prostitution. These laws were typically used to charge prostituted persons rather than

sex buyers,<sup>2</sup> and women charged with a prostitution-related offence were far more likely to receive a jail sentence than men.<sup>3</sup>

In 1990, the Supreme Court of Canada decided a reference case regarding the constitutionality of certain prostitution-related prohibitions.<sup>4</sup> At that time, the *Criminal Code* prohibited three activities related to prostitution: living off the profits of prostitution, keeping a bawdy house (or brothel), and communicating for the purpose of prostitution. The 1990 case concerned the latter two, and the Supreme Court ruled that they did not violate the *Charter*.

However, in 2013, the Supreme Court reversed its 1990 decision and struck all three prostitution-related offences from the *Criminal Code* in the landmark *Canada (AG) v Bedford* ruling.<sup>5</sup> The Court reasoned that these prohibitions (operating a bawdy house, communicating for, or profiting from prostitution) unjustifiably violated the *Charter* right to security of the person for some prostituted persons who benefited from the security of working in a managed setting.

### Canada's Current Prostitution Laws

Following the *Bedford* decision, the Canadian government passed Bill C-36, the *Protection of Communities and Exploited Persons Act* (PCEPA) in 2014. Based on the Nordic (or Equality) Model, this bill signaled a significant change in Parliament's approach to prostitution. The Government of Canada's Technical Paper on Bill C-36 describes how the new law reflected "a significant paradigm shift away from the treatment of prostitution as 'nuisance'... toward treatment of prostitution as a form of sexual exploitation that disproportionately and negatively impacts on women and girls."<sup>6</sup> Justice Goldstein also recognized this paradigm shift when he stated that PCEPA is based on "Parliament's

conceptualization of prostitution as exploitation rather than nuisance."<sup>7</sup>

The overall objective of PCEPA is to abolish prostitution. While PCEPA uses the force of law to accomplish the abolition of prostitution, it also relies on the force of economics. By focusing on the commercialization and institutionalization of the demand for prostitution, it puts downward pressure on the number of women and girls enticed or trafficked into the industry. Bill C-36 maintains that the best way to avoid prostitution's harms is to bring an end to its practice.<sup>8</sup> As Justice Goldstein put it, the goal is "to reduce the demand for prostitution with a view to discouraging entry into it, deterring participation in it, and ultimately abolishing it to the greatest extent possible."<sup>9</sup>

PCEPA aimed to accomplish this goal by creating four prostitution-related offences in the *Criminal Code*:

- Obtaining sexual services for consideration (Section 286.1)
- Deriving material benefit for sexual services (Section 286.2)
- Procuring or recruiting a person to provide sexual services (Section 286.3)
- Advertising sexual services (Section 286.4)

At the same time, Parliament recognized that prostitution could not be immediately abolished and therefore allowed prostituted persons to take certain measures to preserve their safety by granting persons selling their own sexual services immunity from prosecution when selling or advertising their own sexual services.<sup>10</sup>

From a criminal law perspective, it is important to understand the nuance of this law. Prostitution is not a lawful activity. Purchasing sexual services (section 286.1) and profiting from the

sale of sexual services (section 286.2) are both crimes. Women<sup>10</sup> who advertise and sell their own sexual services are still technically parties to the purchasing offence. Parliament, in PCEPA, took pains not to legitimize the selling of sex. However, to encourage prostituted women to report violence, escape exploitation, take advantage of safety and security measures, and exit the sex trade, prostituted women are afforded immunity from prosecution, except under a narrow set of circumstances (s. 213(1) Stopping or impeding traffic; 213(1.1) Communicating to provide sexual services for consideration). As Justice Hoy writes, "the safety-related purpose of the PCEPA ... [is] limited to ensuring that persons who continue to provide their sexual services for consideration, contrary to law, can avail themselves of the safety-enhancing measures identified in *Bedford* and report incidents of violence."<sup>11</sup>

PCEPA also prohibits some, but not all, forms of third-party involvement in prostitution. Section 286.2 embodies Parliament's judgment of when third party involvement is exploitative or not. As Justice Goldstein explains, "PCEPA prohibits exploitive relationships relating to the purchase of sex... [The law is] structured to exempt non-exploitive personal and business relationships from criminal liability. [It is] also structured to prohibit commercial enterprises from receiving a material benefit from the sexual services of sex workers."<sup>12</sup>

### PCEPA Upheld as Constitutional

Canadian courts have upheld PCEPA as constitutional. Both the Ontario Court of Appeal (in *R. v. N.S.* in 2022) and the Ontario Superior Court (in *Canadian Alliance for Sex Work Law Reform v. Attorney General* in 2023) found that

## Parliament recognizes that exploitation is inherent in prostitution.

PCEPA does not violate the *Charter* rights of sex workers to equality, life, liberty, security of the person, or free expression. Justice Goldstein also ruled that “the Canadian *Charter of Rights and Freedoms* does not protect the right of men to buy sex or to have their sexual demands satisfied. It does not protect a right to pimp, procure or profit from the prostitution of another person.”<sup>13</sup>

The Supreme Court of Canada declined to hear an appeal of *R. v. N.S.*,<sup>14</sup> but the Supreme Court will hear constitutional questions around two provisions of PCEPA in *R. v. Kloubakov*. The Alberta Court of Appeal in that case upheld the challenged provisions of PCEPA as constitutionally valid.<sup>15</sup>

### Prostitution is Inherently Exploitative

In the preamble to PCEPA, Parliament recognizes that exploitation<sup>16</sup> is “inherent in prostitution.” Not that exploitation is a risk in prostitution, nor that prostitution is often exploitative. *Rather, prostitution is always and everywhere sexually exploitative.* Exploitation does not necessarily entail physical coercion. Exploitation simply means using people in the wrong way and for the wrong reason. To treat a person as a purchasable product for sexual use is to mistreat her. Prostitution exploits primarily women and girls for the sexual gratification of men. It dehumanizes human beings, commodifies what should not be bought and sold, and consequently often leads to violence and poor health.

This is the normative framework adopted by Parliament in 2016, a framework that Justice Goldstein in *CASWLR v Ontario* (2023) said is owed deference from the court.<sup>17</sup> The criminal law concerns matters of public justice rather than purely private interest. The goal of public justice is to create the conditions necessary for society to flourish. PCEPA – like all laws passed by Parliament – embodies foundational normative principles of Canadian society.<sup>18</sup> At the core of PCEPA is the normative judgment that prostitution is contrary to foundational norms of dignity and equality and is unavoidably damaging to individuals and society.

Some may argue that Parliament should not interfere with any consensual activity – such as the sale of sex – between adults. But Canadian criminal law has always included offences that involve a person acting in self-destructive ways, such as laws against drug use or possession. Our courts have affirmed that Parliament may prohibit consensual acts between persons provided it has a pressing objective for doing so. Exchanging sex for money may occur in private, but it is a practice that has broader societal implications. Bodily autonomy is not unlimited. As the Ontario Court of Appeal recognized and accepted, “Parliament views prostitution as inherently exploitative, even where the person providing services for consideration made a conscious decision to do so.”<sup>19</sup>

### Prostitution Dehumanizes Women and Commodifies Sex

Prostitution dehumanizes people, especially the women and girls who make up an estimated 94% of prostituted persons. As PCEPA’s preamble states, Parliament “recognizes the social harm caused by the objectification of the human body and the commodification of sexual activity.”

Prostitution reduces prostituted women to a purchasable means of sexual satisfaction and so violates their inherent dignity as persons, a dignity derived from the fact that each human being is made in the image of God.<sup>20</sup>

Fundamentally, our bodies do not belong to ourselves, but to the God whose image we bear. Not only is engaging in the purchase and sale of sex an offence against prostituted persons, it is also an attack on human personhood and dignity, and an offence against God.<sup>21</sup> God expressly prohibits prostitution,<sup>22</sup> not only because it is an offence against Him, but also because it is degrading and destructive to people.<sup>23</sup>

Sex is a wonderful and beautiful thing that people can enjoy, but within the proper bounds. Prostitution removes sexual intimacy from its proper place as God designed it – a loving relationship between two married people.<sup>24</sup> Although other types of sexual behaviour can involve a similar moral wrong,<sup>25</sup> few forms of treating a person as a means to the end of sexual pleasure raise the public justice concerns that



prostitution does, because prostitution commodifies the human body and sexual intimacy.

Prostitution is sometimes referred to as *sex work* or *sexual services*. But it is not comparable to the kinds of services we ordinarily buy and sell. Prostitution involves the purchase of direct, intimate access to another's body and sexuality, which is inseparable from her person. Thus, in prostitution, the person – not a good, skill, service, or knowledge she can provide – is commodified. Her body, sexuality, and indeed her person become a product from which a profit can be made.

Centuries ago, the British government recognized that slavery – the sale, purchase, and ownership of human beings – was an affront to the dignity of persons made in God's image and banned the practice throughout the British empire, including Canada. Our law rightly extends the premise that persons are not property to prohibit the purchase, sale, or renting of body parts, human tissue, and human gametes. It is illegal to buy or sell blood, organs, or gametes in Canada and it is also illegal to “rent a womb” through commercial surrogacy.<sup>26</sup> While we want a market *economy*, where prices are freely determined by supply and demand, we don't want a market *society*, where anything and everything (and *everyone*) can be bought and sold.

Prostitution is a grave departure from this principle. Legalizing or decriminalizing prostitution allows market forces to establish a “price for sexual services” that matches supply and demand.

Consider how buyers of sex – almost exclusively men (99%) – see prostituted women. They often leave “product reviews,” commenting on the quality of the prostituted woman as if she were a

consumer product.<sup>27</sup> There is no love. No intimacy. No respect. No reciprocity. She is not seen or treated as a person. Survivors have described prostitution as reducing them to “objects into which men masturbate” or “ejaculation receptacles.”<sup>28</sup>

Prostitution leads to broader social patterns of men objectifying women. Researchers Coy, Smiley, and Tyler found that “the normalization of purchasing sexual access to women has especially harmful consequences for particular groups of marginalized women, as well as having broader effects on the status of women as a class.”<sup>29</sup> By dehumanizing prostituted women, prostitution dehumanizes all women.

### Prostitution Generates Demand for Sex Trafficking

While some advocates for the legalization of prostitution downplay the connection, the link between prostitution and human trafficking is hard to overstate.<sup>30</sup> The Ontario Superior Court, after reviewing a massive body of evidence, found that “there is a clear link between sex work and human trafficking. In fact, there is a considerable body of evidence that many sex workers are manipulated or coerced into sex work or trafficked while in it.”<sup>31</sup>

Sex trafficking is another egregious violation of human dignity. Although most instances of domestic trafficking start with a “boyfriend” emotionally manipulating girls into occasional prostitution, this usually progresses to pimps using violence, threats, physical manipulation, and coercion to control many areas of a prostituted woman's life.<sup>32</sup> For these women, prostitution is hellish. Pimps may pressure them into some sort of criminal activity and threaten to report it. Prostituted persons

may become reliant on drugs supplied by an exploiter. They may be physically threatened if they don't do enough “tricks” per night. Their family members may be threatened if they try to exit the industry. By all accounts, sex trafficking is sexual slavery.

According to eighteen research studies, government reports, and reports from nongovernmental agencies around the world, an estimated 84% of women in prostitution are trafficked, pimped, or under third-party control.<sup>33</sup> The Government of Canada's Measures to Address Prostitution Initiative (MAPI) study found that 67% of prostituted women were physically or psychologically coerced by others to provide sexual services. Eighty-one percent expressed a desire to exit prostitution and only 1% desired to remain.<sup>34</sup> Many women who thought they entered prostitution voluntarily realized later that they were subtly trafficked.<sup>35</sup> And while there may be a spectrum of choice and coercion in the entry into prostitution (e.g. physically kidnapped, psychologically manipulated, intoxicated, or threatened), some level of coercion is almost always present.<sup>36</sup>

Legalizing prostitution leads to more trafficking of women and children into the sex trade.<sup>37</sup> Several studies have found that countries that legalized prostitution experienced higher inflows of trafficking victims than either prior to legalization or compared to peer countries where prostitution remains illegal.<sup>38</sup> In a chilling example of this effect, a study in the Netherlands found that, in the first five years of legalized prostitution, the number of child prostitutes in the country increased by over 300% from 4,000 to 15,000.<sup>39</sup> Even something as simple as repealing a law that allowed police to investigate loitering, as happened in California, led



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to “an explosion of street trafficking, the most dangerous type of prostitution.”<sup>40</sup>

### **Prostitution is Violent and Unhealthy**

Finally, prostitution is often violent and leads to poor health outcomes.<sup>41</sup> The Department of Justice’s Technical Paper on Bill C-36 recognizes that “[p]rostitution is an extremely dangerous activity that poses a risk of violence and psychological harm to those subjected to it, regardless of the venue or legal framework in which it takes place.”<sup>42</sup> The judge in *CASWLR* found that “violence is a feature, not a bug of sex work. It comes in various guises and forms and is perpetrated by customers, exploiters, traffickers, and occasionally by other sex workers.”<sup>43</sup> Health and safety codes in Victoria, Australia, where prostitution has been legalized, show that women in legal and regulated prostitution still face various forms of assault and rape.<sup>44</sup>

A review of the Canadian government’s Measures to Address Prostitution Initiative (MAPI) found that black eyes, bruising, lacerations from knives, strangulation marks, missing teeth, traumatic brain injury, bullet wounds, internal injuries to reproductive tissue, and missing nipples were common injuries seen on prostituted women seeking support.<sup>45</sup> Many were branded or tattooed to identify them as belonging to a particular trafficker.

Sixty-eight percent of prostituted women had an addiction to drugs or alcohol.<sup>46</sup>

Federal and provincial governments have long recognized the harmful nature of prostitution. The government of Quebec warns that sexual exploitation, which often includes prostitution, can lead to post-traumatic stress disorder, anxiety or depression, emotional numbness, insomnia, hypervigilance, homelessness, difficulty finding or maintaining employment, substance abuse, difficulties with interpersonal relationships, and loss of self-esteem.<sup>47</sup>

### **International Law and Precedent**

Canada’s comprehensive reworking of its law in 2014 drew upon several key principles embodied in international legal conventions. It also considered the policies of Nordic and other countries that were having success in reducing prostitution and human trafficking. The Nordic Model, after which PCEPA is modeled, sees prostitution as inherently exploitative and targets demand in order to reduce prostitution.

### **Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others**

In 1949, the United Nations passed the Convention for the Suppression

of the Traffic in Persons and the Exploitation of the Prostitution of Others. The convention recognized that “prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community.”

By signing the convention, governments agreed:

“to punish any person who, to gratify the passions of another: (1) Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; (2) Exploits the prostitution of another person, even with the consent of that person.”

This convention recognized that the fundamental issue with prostitution isn’t the question of consent, but that prostitution is inherently exploitative, dehumanizing, and commodifying.

A majority (107) of the 192 UN member states have ratified or signed the convention, including peer countries such as Norway, Finland, Denmark, Spain, Portugal, Italy, and Belgium. Canada has not signed the convention, likely due in part to the fact that for most of Canada’s history (until 2014) its law did not prohibit prostitution.<sup>48</sup>

### **Convention on the Elimination of All Forms of Discrimination Against Women**

Canada signed and ratified the Convention on the Elimination of All Forms of Discrimination Against Women in 1979. Article 6 commits parties to “take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”<sup>49</sup>

### **Palermo Protocol**

Canada ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (also known as the Palermo Protocol) in 2002. A milestone in international anti-human trafficking law, the Palermo Protocol calls on member states to:

“adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”<sup>50</sup>

### **The Nordic Model**

While most Western countries maintained full criminalization of both the sale and the purchase of sex, or experimented with legalization or decriminalization, Sweden pioneered a new approach to addressing prostitution. In 1999, Sweden passed the *Act on Violence Against Women* to criminalize the purchase of sex and decriminalize the sale of sex.

The Swedish law – popularly referred to as the Nordic Model – has two main purposes. The first is to recognize that modern prostitution is intertwined with sexual exploitation and human trafficking, and that prostituted persons

need to be helped, not prosecuted. The second is to leverage classic economic theory to combat sexual exploitation and human trafficking. With the sex trade, as it was with the slave trade, demand fuels supply. Since almost nobody would choose to engage in prostitution if given a meaningful choice, human trafficking is needed to meet demand. If the criminal law targets buyers, demand is reduced. And if demand is reduced, the supply of exploited and trafficked women will be reduced as well.

A decade after implementing their new law, the Swedish government commissioned a special inquiry to investigate its effects. The results were encouraging. The prevalence of prostitution collapsed in the years following the passage of the law. Swedish authorities estimated that, in 1995, there were 2500-3000 prostituted women in the country, 650 of whom engaged in street prostitution. By 2008, street prostitution had halved.<sup>51</sup> This finding was derived from independent, comparative research and consultation with police services, social services, and relevant NGOs.<sup>52</sup>

Another study estimated that only 650 prostitutes were active in Sweden in 2008, a decrease of 74-79% compared to before Sweden passed its new law.<sup>53</sup>

Prostitution in Sweden also decreased compared to neighbouring countries.<sup>54</sup> In 2008, neighboring Denmark had an estimated 5,567 people engaged in prostitution and Norway 2,654 compared to Sweden’s 650, even though the population of Sweden is about twice that of Norway or Denmark.<sup>55</sup> The percentage of Swedish men who had ever purchased sex, according to one study, decreased from 13% in 1996 to 8% in 2008.<sup>56</sup>

The data suggest the Nordic model has

been successful in discouraging the demand for commercial sex. Critics of the law suggested prostitution had merely moved underground into more dangerous locations. However, the 2010 inquiry directly investigated these claims and found no evidence that this was occurring.<sup>57</sup>

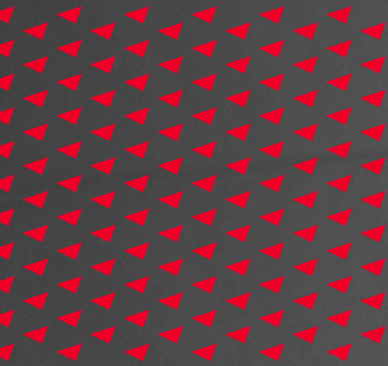
The new law also reduced human trafficking. Less human trafficking occurs in Sweden than in surrounding countries since their new law passed.<sup>58</sup> Additionally, police wiretaps have revealed that human trafficking organizations view Sweden as a bad market for commercial sex due to low demand and higher risk for the traffickers.<sup>59</sup> Survivors of human trafficking have also confirmed that this attitude was prevalent among their handlers.<sup>60</sup>

The Swedish prostitution law also plays a role in shaping cultural attitudes toward prostitution. In 1996, when the preliminary work for the legislation was being done, 67% of the Swedish population thought that prostitution should not be criminalized. By 1999, 76% agreed that prohibiting the purchase of sex was the right way forward. Since the implementation of the law, three separate surveys showed that public support for the Nordic model has remained above 70%.<sup>61</sup>

An educational public discourse and increased awareness of the violent and exploitative nature of prostitution, stimulated by the legislative changes, made a significant, positive difference on the normative views of Swedish citizens.

The evidence speaks clearly: the Nordic model deters the crime of buying and selling women and children. As a result of this success in reducing the prevalence of prostitution, sexual exploitation, and human trafficking in Sweden, many other jurisdictions have





adopted the Nordic model: Norway (2009), Iceland (2009), Northern Ireland (2015), France (2016), Ireland (2017), and Israel (2018). The Parliament of the European Union also endorsed the Nordic Model in 2014.<sup>62</sup>

### **Prostitution in Canada**

Canada needs to do more to investigate the extent and nature of prostitution in Canada. The underground nature of prostitution makes it difficult, but not impossible, to collect good data. We do have some good estimates of the extent of the problem from research done in other parts of the western world. Several

studies based on survey data over the past decade have found that 9.5% of adult men in Sweden have purchased sex in their lifetime, 11.0% of adult men in Britain, 12.9% of adult men in Norway, 14% of adult men in the United States, 16.7% of adult men years in Switzerland, 25.4% of adult men in Spain, and 26.9% of adult men in Germany.<sup>63</sup> In any given year, an average of 3.6% of adult men across high-income countries had purchased sex.<sup>64</sup>

If the prevalence of purchasing sex is similar in Canada, a reasonable estimate is that 3% of Canadian men (approximately 468,000 men) have

purchased sex within the last year and 10% of Canadian men (approximately 1.56 million men) have purchased sex in their lifetime.<sup>65</sup>

Estimating the number of prostituted women is harder. One researcher analyzed the number of online advertisers for sexual services in Canada and estimated that 21,344 women were selling sexual services in a given month, representing 0.2% of the Canadian female population between 20 and 49 years of age. This study suggests that one in 531 women in Canada is selling sex.<sup>66</sup>

Over the last few decades, Canada has grown lax in prosecuting prostitution-

related offences and human trafficking. The number of prostitution-related offences reported by police peaked at 40 per 100,000 Canadians in 1988. Since then, enforcement has decreased steadily, reaching a low in 2014 with only three instances of prostitution-related offences per 100,000 reported by police.<sup>67</sup> Since the reform of Canada's prostitution laws in 2014, enforcement has risen only slightly to 3.5 reported offences per 100,000 Canadians.<sup>68</sup> Some jurisdictions in Canada, such as British Columbia, hardly enforce the law at all.<sup>69</sup>

Although the prevalence of human trafficking is extremely difficult to determine, an average of 104 cases of human trafficking have been reported to police each year between 2015-2019. Eight percent of all prostitution-related offences involved a human trafficking charge.<sup>70</sup>

Approximately 80% of prostitution solicitation is estimated to be online today<sup>71</sup> and most transactions occur indoors. Only 5-20% of all prostitution occurs on the streets.<sup>72</sup>

### Prostituted Women

Obtaining an accurate profile of prostituted women is nearly impossible because no study to date has gathered a random sample from the full population of prostituted women. Furthermore, minors, Indigenous women and girls, and those under the control of a trafficker or third party are likely highly underrepresented in any data. Those who are trafficked into prostitution and threatened to make them remain tend not to respond to research study programs. Consequently, most academic studies on prostitution vastly over-represent women who claim they entered the industry by choice.

There are numerous studies that suggest that a significant proportion of those

who enter prostitution are not making an independent, informed choice as an adult but rather a coerced or desperate choice, perhaps as a minor. For example, in a study of almost a thousand prostituted women across nine countries, Farley and colleagues found that the average age of entry into prostitution is 19, with 47% entering before the age 18, the minimum age of majority in Canada.<sup>73</sup> Other studies and jurisdictions estimate that the average age of entry into prostitution is even lower. The Government of Quebec claims that approximately 80% of prostituted women entered as a minor, with an average age of entry being 14.<sup>74</sup>

We do know that the vast majority of women in prostitution would exit if they could. The Measures to Address Prostitution Initiative looked at organizations that provide support to people involved in prostitution from 2015-2020. A review of the program found that these organizations helped 2,291 individuals in the five-year span. The vast majority (94%) were women and girls, most commonly between the ages of 20-24. Most wanted to leave prostitution (81%), were addicted to drugs or alcohol (70%), and had been physically or psychologically coerced into providing sexual services. Childhood sexual abuse, violence, intergenerational trauma, poverty, and the allure of the sex trade were all common factors contributing to their entry into prostitution.<sup>75</sup>

Proponents of prostitution present a different story to the one above, framing sex work as a legitimate, freely chosen profession. Justice Goldstein recognized in *Canadian Alliance for Sex Work Law Reform v. Ontario* that the sampling of prostitutes in academic literature tends to be non-representative.<sup>76</sup> For every woman who claims that prostitution was a free and informed vocational choice,

### Profile of Prostituted Persons in Canada

Percentage who are women and girls	94%
Percentage who are Indigenous	16%
Typical age	20-24
Percentage who are under 18	6%
Percentage addicted to drugs or alcohol	68%
Percentage needing mental health support	52%
Percentage wanting to leave prostitution	81%
Percentage coerced to provide sexual services	67%

there are likely eight or nine women who have been coerced or manipulated into prostitution.<sup>77</sup>

### The Purchasers

We have better data on purchasers of sex in Canada than we do on prostituted persons. In 2010, researcher Chris Atchison from the University of Victoria published the Johns' Voice study, one of the largest surveys of purchasers of sex in the world and the largest to date in Canada.<sup>78</sup> Buyers are almost exclusively male (99%) and are better educated and have higher incomes than most Canadians. The median number of times that respondents had paid for sex was

## Statistical Overview of Buyers in Canada

<b>Average age</b>	42
<b>Sex</b>	99.4% male
<b>Marital status</b>	47.5% married or common-law 39.3% single
<b>Educational achievement</b>	5.5% less than high school 39.7% some post-secondary 18.8% diploma or certificate 32.3% university degree 14% masters degree 3.8% doctorate degree
<b>Employment</b>	87% employed
<b>Most common occupations</b>	17% business, finance, and administration 12.5% trades and transport 11.6% natural and applied science 10.8% management 10.6% sales and service
<b>Income</b>	7.5% \$0-20,000 13.0% \$20,000-40,000 23.3% \$40,000-60,000 17.8% \$60,000-80,000 13.5% \$80,000-\$100,000 25.0% \$100,000+
<b>Median times paid for sex in lifetime</b>	108
<b>Average age first purchased sex</b>	27
<b>Preferred age range for sex sellers</b>	21-25
<b>Percentage preferred sex seller under 18</b>	1.2%
<b>Spoken to anyone about visits with sex sellers</b>	50.8%
<b>Awareness of Canadian prostitution law</b>	61%

108. Since the majority of respondents were still purchasing sex, the median number of times paid for sex by the end of a median buyer's life (e.g. 80 years old) might be far higher than that.

### Success of PCEPA

PCEPA's critics claim it has failed to reduce demand for prostitution, end sexual exploitation, or protect prostituted women. Regrettably, there is little data about the extent of prostitution and sexual exploitation in Canada before versus after PCEPA, making a clear analysis of its success in Canada difficult.

There is no reason to suspect, however, that a model that has clearly worked in other developed countries is not working in Canada. What little data we have suggests that the law is succeeding. Compared to the five years prior to the passage of PCEPA, there were 42% fewer reported injuries and 36% fewer reported murders of prostituted women.<sup>79</sup> Although opponents of PCEPA and advocates of legalization or decriminalization predicted a surge in violence against prostituted women in the wake of the new law, in adjudicating the legal challenge against PCEPA, Justice Goldstein concluded, "Overall, I find that violence plays an important role in the sex industry but that there is no evidence that the enactment of PCEPA has led to an upsurge in violence."<sup>80</sup>

PCEPA has also resulted in far more men being charged with prostitution-related crimes than women, reversing the pattern before PCEPA. This is fitting, because far more men are involved in prostitution (primarily as purchasers) than women, and prostituted women are already victimized. Post-PCEPA, 95% of prostitution-related charges were



against men, reflecting the shift away from prosecuting prostituted women to instead prosecuting men for purchasing sexual services.

### **Public Opinion on Prostitution in Canada**

Although few polls measure public perception of prostitution, a 2020 Nanos poll finds strong support for PCEPA, with four and a half times more Canadians in favour of the law than opposed to it. A similar proportion of Canadians think that prostitution is immoral.<sup>81</sup>

The prostitution laws of a country help shape public attitudes. Whether the Nordic Model in Sweden, legalization in the Netherlands, or decriminalization in New Zealand, laws are meant to inform attitudes toward the buying and selling of sex. Researchers have found a correlation between prostitution laws and public opinion of the morality of prostitution. Prostitution is viewed more favourably in countries where it is decriminalized or legalized and less favourably in countries where prostitution is criminalized.<sup>82</sup>

## **CONCLUSION & RECOMMENDATIONS**

Canadian governments must continue to combat prostitution, human trafficking, and all forms of sexual exploitation. As Swedish Justice Minister Beatrice Ask remarked, “As long as we don’t want our daughter or sister to be in the business, we should ask ourselves why we tolerate it.”<sup>83</sup> We urge Parliament to increase the punishment of offenders, educate the public, bolster enforcement of PCEPA, provide sustained and robust financial support for exit services and programs, and enact a permanent national strategy to combat human trafficking. Such a

policy approach is needed to protect the dignity of women and girls, to achieve the underlying goals of PCEPA, to fulfill our international obligations, and to create a healthier and flourishing society.

### **Recommendation #1: Increase enforcement of PCEPA**

Currently, enforcement of PCEPA is relatively weak. As the Fraser Report recognized, “a legal regime is no better than the level of will and ability to enforce it.”<sup>84</sup> Provincial governments must direct law enforcement to devote greater attention to combating prostitution. Provincial governments could establish integrated response teams like Alberta’s ALERT<sup>85</sup> teams to coordinate municipal, provincial, and federal law enforcement against sexual exploitation and human trafficking.

### **Recommendation #2: Partner with survivor-led exit groups by renewing MAPI**

Simply offering prostituted women immunity from Canada’s *Criminal Code* provisions isn’t enough. Women who want to exit prostitution need help and a range of supports such as shelter, housing, trauma and addiction counseling, job training, and health care. Many organizations are doing commendable work to help women escape prostitution such as the Joy Smith Foundation, Hope Restored Canada, Bridge North, Defend Dignity, and Arise Ministry. Federal and provincial governments should continue to partner with these organizations to provide supports that survivors need. Law enforcement should also know about support organizations and be quick to refer victims of prostitution to them.

The Measures to Address Prostitution Initiative (MAPI) expired in the 2020-21 fiscal year, impacting non-profit

organizations that provide exit and support services such as housing, health care, therapy, addictions treatment, family reunification, and life skills programs to victims of prostitution. The federal government should permanently revive the initiative and provide at least \$5 million per year to be distributed among various exit groups across Canada.

### **Recommendation #3: Increase public awareness on the illegality and harms of prostitution**

The federal and provincial governments should increase public awareness around the connection between human trafficking, sexual exploitation, and prostitution. It should also increase awareness that the purchase of sex is illegal in Canada, and that prostituted people cannot be prosecuted for selling their own sexual services. To fulfill the objective of PCEPA and reduce the demand for prostitution, the highly coercive and illegal nature of the industry must be known, and prostituted women must have the confidence to seek legal and social supports to exit the industry.

### **Recommendation #4: Enact a permanent National Strategy to Combat Human Trafficking**

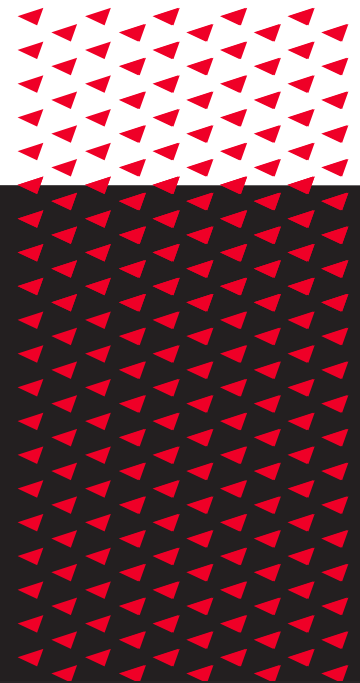
The National Strategy to Combat Human Trafficking is set to expire in 2024, reducing Canada’s commitment and ability to combat human trafficking and sexual exploitation. The federal Minister of Public Safety and Emergency Preparedness should enact a permanent national strategy to combat human trafficking and report its progress to Parliament each year.

## Endnotes

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- 9 *Canadian Alliance for Sex Work Law Reform v. Attorney General* 2023 ONSC 5197 at para. 66; *R. v. N.S.*, 2022 ONCA 160 at para. 57.
- 10 While we do not wish to ignore the existence of male prostitutes, because women and girls make up such a vast proportion of prostitutes (approximately 94%) and men make up the vast majority of purchasers (approximately 99%), we will focus on women involved in prostitution in this report.
- 11 *R. v. N.S.*, 2022 ONCA 160 at para. 63.
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- 14 *N.S. v. His Majesty the King*, No. 40324 (Supreme Court of Canada - Applications for... January 12, 2023).
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- 19 *R. v. N.S.*, 2022 ONCA 160, para. 131.
- 20 Genesis 1:27
- 21 1 Corinthians 6:12-20
- 22 Leviticus 19:29; Deuteronomy 23:17;
- 23 Proverbs 7
- 24 Genesis 2:24; Exodus 20:14; I Corinthians 7:1-4
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We know that championing our policy recommendations will take courage, dedication, and hard work. We at ARPA Canada strongly believe that doing so would be consistent with God's calling for you in a position of civil authority (Romans 13), and for promoting the well-being of our neighbours, in line with Canada's constitution and legal history. We are grateful for your service and we remember you in our prayers.

**RESPECTFULLY SUBMITTED**

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