

Criminalizing of the Purchase of Sex: Impacts and Consequences

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In 2013 Canada introduced legislation that criminalized the purchase of sexual services. Criminalizing the purchase of sex is often referred to as the “Swedish” or “Nordic” model and is presented as a new legal framework to eradicate sex work and trafficking by “ending demand”. This new Canadian legislation was modeled after Sweden’s, which in 1999 made the purchase of sexual services a crime. These “end demand” models are often described as “decriminalizing sex workers and criminalizing clients.” Limited understanding of “end demand” models means that their proponents are often unaware of the ways in which they still criminalize sex workers or put sex workers at risk.

Contrary to what proponents of the new law claim, in Canada, sex workers are still criminalized and can be arrested for communicating for the purpose of selling sexual services if they

do so in public or in a place within public view that is next to a playground, a school ground or a daycare. *Criminal Code* sections 213(1) and 213(2), and the new addition of 213.1.1, mean that sex workers are still working in an antagonistic relationship with law enforcement and still face the same risks that were identified by the Supreme Court in the *Bedford* case¹ as unconstitutional—and that harm sex workers through criminalization.

Additionally, section 286.1 criminalizes every client who in any place and at any time communicates with anyone for the purpose of obtaining sexual services for consideration; and/or obtains sexual services for consideration.

¹ *Canada (Attorney General) v. Bedford*, 2013 SCC 72.

What are the impacts of criminalizing the purchase of sex on sex workers?

Street based sex workers in Canada and Sweden report increased violence when clients are targeted.

- When clients are displaced or deterred, street-based sex workers are more likely to take risks with new or unknown clients and provide services they would not otherwise be prepared to offer.
- Sex workers work in darker and less populated areas where they are more vulnerable to violence.
- A reduced client base means sex workers work longer hours and more often to generate the same income, which has the impact of decreasing their safety and increasing potential for tensions with fellow community members.
- Surveillance patrols aimed at locating clients displace sex workers into darker and less populated areas where they are more vulnerable to violence.
- Clients’ fear of detection by police mean that sex workers are unable to take sufficient time to screen potential clients before getting into cars.

Sex workers are displaced to more isolated locations to find clients. As a result, informal support networks among sex workers are weakened, and it is more difficult for sex workers to warn each other about abusive or violent aggressors posing as clients, as well as to consult resources like a “bad date list”. It also makes it harder for social service providers to maintain contact with sex workers.

Under this model, sex workers continue to experience significant difficulties when they report violence and coercion to police. Identifying oneself as a sex worker to a police officer can result in greater scrutiny, harassment and increased risk of deportation².

Clients are reluctant to report violence, coercion, or exploitation that they may witness against sex workers for fear of their own arrest. As a result, it is more difficult to gather evidence and prosecute perpetrators.

In Sweden, those sex workers who continue to work on the street are harassed and abused by police (e.g., videotaped, strip searched and searched for condoms). Moreover because sex workers are implicated in a criminal act they are required to appear in court to provide evidence against clients, which exposes them publicly.

Increased discrimination from health service providers has been reported. The subsequent fear of discrimination prevents sex workers from talking about their sex work experiences when testing for HIV and other sexually transmitted infections and when accessing health services for their overall health.

² Dodillet, S, et P. Ostergren. 2011. The Swedish Sex Purchase Act: Claimed Success and Documented Effects. Document de la conférence présentée à l’atelier international: Decriminalizing Prostitution and Beyond: Practical Experiences and Challenges. La Haye, Pays-Bas, 3 et 4 mars 2011. <http://gup.ub.gu.se/records/fulltext/140671.pdf>

In Sweden, most social service providers oppose condom provision since it is perceived to render them complicit in sex work-related offences. After the passage of the “Swedish model”, HIV prevention projects aimed at clients of sex workers also ceased.

Sex workers frequently face difficulties accessing and maintaining housing as a result of the criminalization of those who rent premises used for sex work, exacerbating discrimination against

sex workers. Sex workers’ increased mobility and displacement to hidden venues also impede their access to and ability to maintain housing.

Even though their work is not illegal, sex workers are unable to access social security benefits that are available to all other workers in legal labour activities.

Does criminalizing the purchase of sex reduce prostitution?

In cities like Vancouver, Montreal and Ottawa where enforcement has shifted to target clients, sex workers and service providers working with them are reporting the same negative impacts on their safety that led to the *Bedford* challenge.

- Despite its stated intentions, the Swedish model does not reduce, much less eliminate, prostitution. This is supported by the three Swedish government reports affirming that the sex industry has not diminished but been displaced to more isolated spaces.³
- A 2014 study indicates that while the presence of street prostitution has decreased, the number of online and indoor sex workers has dramatically increased. Researchers state that the decrease needs to be understood in the context of technological developments.

- The decline in the number of sex workers working on the street following the passage of the Swedish law can largely be attributed to the concurrent emergence of internet technology. Sex workers moving indoors is not a trend unique to Sweden but one observed in countries regulating sex work in an array of vastly different ways.

³ RPS (Rikspolisstyrelsen) 2001. Rapport. “Lag (1998:408) om förbud mot köp av sexuella tjänster. Metodutveckling avseende åtgärder mot prostitution.” Av Nord, Anders och Rosenberg, Tomas. Polismyndigheten i Skåne. ALM 429-14044/99. 2001. POB -429-4616/99; SoS (Socialstyrelsen) 2000. “Kännedom om prostitution 1998–1999.” SoS rapport 2000:5; BRÅ (Brottsförebyggande Rådet) 2000. Brå rapport 2000:4. “Förbud mot köp av sexuella tjänster. Tillämpningen av lagen under första året.” Brottsförebyggande rådet. Stockholm

⁴ National co-ordinators office against prostitution and trafficking. *Prostitutionen i Sverige*. Lansstyrelsen Stockholm 2015. <http://www.lansstyrelsen.se/stockholm/Sv/Pages/default.aspx>