

Comment: New prostitution law a missed opportunity

Rachel Phillips / Times Colonist

November 9, 2014 03:43 PM

The laws of a progressive, democratic country like Canada ought to be based on evidence, research and balanced consideration of the parties affected, not personal morality and ideology.

Unfortunately, that's not the case with our country's new anti-prostitution bill, a muddy and deeply flawed law that will accomplish little, other than to make life more difficult and dangerous for Canada's sex workers until some court decision demolishes what the federal Conservatives have wrought.

Those who support Bill C-36 say it will lead to the abolishment of the sex industry, and better protection for victims of trafficking and sexual exploitation. But decades of research from around the world — not to mention the experiences of Canadian sex workers, whose voices were trivialized, challenged and ultimately ignored in the rush to pass this law — tells us otherwise.

That Canada's laws around sex work were already flawed was proven last December, when the highest court in the land threw out three key laws governing adult prostitution. The Supreme Court of Canada unanimously ruled that laws around solicitation, keeping a common bawdy house (brothel) and living off the avails of prostitution were unconstitutional.

That ruling presented Canada with an opportunity to create a new system of regulation for the adult sex industry, one that for the first time could have made the health, safety and human rights of those in the sex industry a primary objective. With laws around sex trafficking, exploitation and violence untouched by the court ruling, Canada was free to create smarter regulations around the adult, consensual industry while violence against those in the sex industry, third-party coercion and child sexual exploitation remained prohibited.

Instead, the federal government went in the opposite direction. Using ideologically based arguments and Victorian-era language, conservatives referred to those in the sex industry as "prostituted women," trafficked whether they knew it or not. That set the stage for the introduction of more regressive laws than any sex-work law in our history, criminalizing the purchase of sex for the first time.

Justice Minister Peter MacKay and supporters of C-36 have talked a great deal about how the new law will "save" sex workers by criminalizing their customers. But just think for a moment about the nature of any commercial exchange to see the flaw in that argument. If you make your living selling shoes, how does criminalizing your customers improve anything for you? The new law also outlaws advertising, communication and group work environments. Indeed, the laws that were struck down because they endanger sex workers have reappeared, only marginally altered.

Whatever your opinion of the right and wrong of selling sex, the truth — the well-researched, evidence-based truth — is that it's a source of needed income for tens of thousands of Canadians.

People in the sex industry hold diverse views of their experiences. But they are clear that criminalization harms them. We need only look to the U.S. to be reminded that the sex industry exists in spite of the law. The best protections come via decriminalization, as many years of research from countries such as New Zealand has proven.

When sex workers no longer have to fear their own prosecution when reporting a crime to the police — when they are free to pursue complaints through all the civil and human rights bodies that the rest of us have access to — their lives improve. Their sense of safety and equality is enhanced.

Had the Harper Conservatives really wanted to support people in the sex industry, they could have provided resources for any number of quality, sex worker-led programs that have had their government funding cut over the years. They could have listened to sex workers and researchers who have studied these kinds of questions for decades, and meaningfully engaged with important underlying policy issues, such as gendered poverty, sexual inequality and the legacy of colonization.

They could have taken time to consider the weighty decision of their own Supreme Court and shaped a new, effective approach. They did

none of that. Instead, the new law further entrenches the social exclusion of people in the sex industry, while guaranteeing the waste of many more millions of taxpayer dollars on future court challenges, missing-women investigations and morality-based policing.

The silver lining is that, try as it might, the government cannot turn back time on a sex-workers' rights movement, which, in the face of opposition, is only growing louder in Canada and internationally, and will eventually achieve its aims.

In the meantime, Peers Victoria will do what it has always done, providing non-judgmental services and support led by sex workers.

Rachel Phillips is executive director of the Peers Victoria Resources Society.

© Copyright Times Colonist