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Barely illegal: New prostitution laws may drive sex work underground — but can it stop it?



RICHARD WARNICA | May 7, 2015 | Last Updated: May 8 10:21 PM ET
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Sex trade work is illegal ... but will it be for much longer?

THE CANADIAN PRESS/Jonathan Hayward /Files

Barely illegal: Canada's vice laws have undergone radical change in the last few years — but it hasn't necessarily affected how Canadians, and the police, behave. In a two-part package, National Post looks at enforcement (or the lack thereof) around marijuana and prostitution and what it means for the future.

“Raven” sells herself online as “classy, genuine and discreet.” She takes “donations” for her time: \$160 for 30 minutes or \$220 for a full hour. She can be a “sweet innocent girl,” she wrote in a recent posting, “or the one to fulfill all your fantasies.” But if you don’t like tattoos, she added, she’s not the one for you.

Raven, a name she uses professionally, started selling sex in Winnipeg about a year ago. “It’s something I enjoy,” she says. She isn’t trafficked. She wasn’t forced into it. She likes the people she meets. “There’s nothing wrong with it,” she says. “I’m not hurting anybody.”

In the last several months, though, Raven, 33, has noticed small changes cropping up in her industry. Clients are becoming more cautious, she believes, and advertising more discreet. Online posts — once quite explicit — are slipping into euphemism. “Everything has a to be a lot more quiet now and underground,” she says. “People are worried about being busted.”

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Four months after the federal government brought into force new laws aimed at ending prostitution in this country, the vast grey market for sexual services in Canada remains, unsurprisingly, intact. From Halifax to Victoria and everywhere in between, sex is still being bought and sold in Canada, according to sex workers, police departments, researchers, and common sense.

But that doesn't mean the industry itself hasn't shifted in response to the laws. More importantly, it doesn't mean the problems that prompted the legal change in the first place have gone away.

In interviews with the *National Post*, sex workers in five cities across Canada, all contacted through a popular sexual services website and identified here by their work names, said uncertainty over the new regulations has pushed some clients away and made business harder for them in other ways.

"What's changed is that we're not getting new customers," says "Nicole," 39, who sells sex from her apartment in Toronto. "I used to make quite a bit of money, less now because I think a lot of clients are afraid to call us."

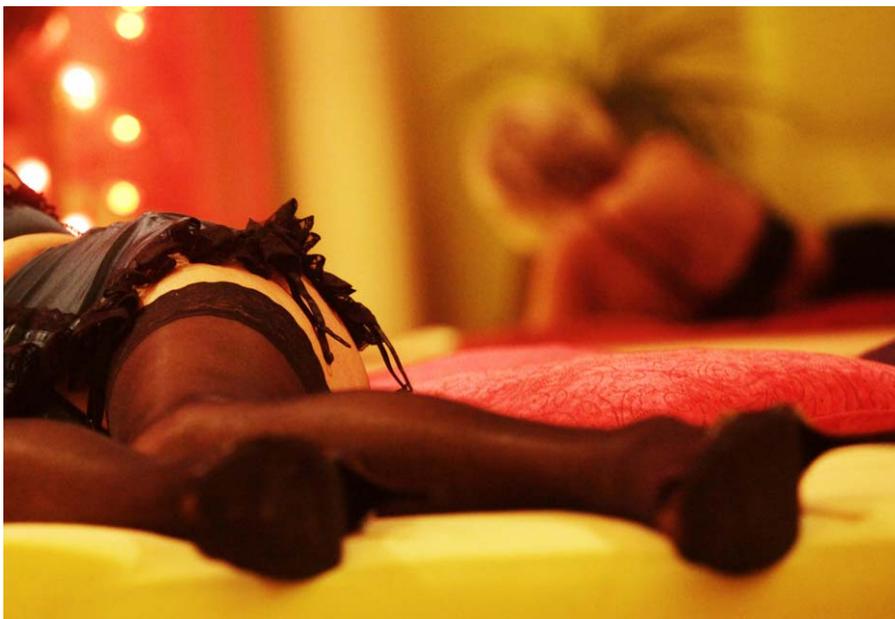
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The new legislation, the *Protection of Communities and Exploited Persons Act*, or just Bill C-36, was the Conservative government's response to Supreme Court's ruling in the "Bedford" case.

In that landmark decision, brought down in 2013, Canada's highest court tossed out several criminal code provisions related to the sale of sex on the grounds they violated sex workers rights to security under the Charter. The court suspended that ruling for 12 months, however, giving the federal government time to craft a new set of, in some ways, even more restrictive laws around sex work.

Bill C-36, for the first time in Canada, explicitly outlawed the buying, but not the selling of sex. It also gave police new powers to prosecute those who advertise sex work and those who exploit or otherwise make money off sex workers in all but a few limited cases.

The explicit goal of the legislation, outlined in a justice department position paper, was to reduce the demand for prostitution by "discouraging entry into it, deterring participation in it and ultimately abolishing it to the greatest extent possible."



MARTIN OESER/AFP/Getty Images

On one, limited, level, that strategy appears to be working. "I think it's changed for the guys since the law's changed," says "Stacy," who works in a massage parlour in Edmonton. "There's one guy I know, he'll only see a girl he's seen before, whereas before he'd go on Back Page [the Kijiji of escort ads] and go and see whoever."

But if, in the short term, some sex buyers are shying away under the new regime, Chris Atchison, a research associate at the

University of Victoria, doesn't expect it to last. Atchison, who has spent almost 20 years studying men who buy sex, says what we're seeing now is basically what happens anytime there's any change to the laws around sex work.

"Really what we see is initially a lot of fear," he says. Clients become more cautious as they try to gauge the police reaction and the new risks. But the market doesn't go away in the long run.

"I've seen it in these various [online] forums," he says. People say they're retiring from "the hobby," as they call it, or taking a break. "But I don't think these people ever quit," Atchison says. "They'll walk away long enough to figure out: 'How can I do this safely?'" But eventually, most, if not all of them, will be back.

For Atchison, the worry is that, as the industry recalibrates, it will reform in ways that are less open and thus less safe for sex workers and clients alike. One key risk, he believes, is that, by criminalizing the purchase of sex, the government has created a powerful disincentive for Johns to come forward if they see someone being abused or forced into the trade.

It's not an abstract fear. The Toronto Police Service is currently in the midst of a large-scale crackdown on human trafficking. In two recent high profile busts, investigators were tipped off by Johns, says Detective Sgt. Nunzio Tramontozzi, the head of the department's human trafficking division.

"A lot of these girls, what happens is the guys will say that they're 19 or 20 or 21," Tramontozzi says. "But when [the Johns] get to them in the hotel room, they can actually see that they're a lot younger. They're way too young. And they'll say, listen, I'm leaving, but I'm going to the police."

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Atchinson says that, under the new laws, that may be less likely to happen. In one recent survey, he asked Johns if they'd report abuse if they saw it. Many would, he said. But among those who wouldn't, the number one reason they gave was fear of arrest or exposure.

Not every sex worker who spoke to the *Post* has seen their business change since the new laws came in. One woman, a grandmother who operates professionally under the name "Submissive Rose" — mostly out of Mississauga hotel rooms — says she and her clients are too discreet to attract much notice.

"I'm a bit of an anomaly, because I'm older," she says. "I came into this recently with my eyes wide open."

What seems to exist more than anything among the women interviewed for this story is uncertainty over what exactly the new laws mean and how police plan to enforce them. But police departments contacted across the country indicate little or no change — so far.

In Winnipeg, the police department had already shifted its enforcement focus toward the "wellbeing of women in the sex trade," in 2013, Sgt. Cam Mackid said in an email. That hasn't changed under the new regime. The department will still only charge sex trade workers "as a last resort," Mackid wrote. Instead, investigators focus on anyone "exploiting women:" from traffickers to pimps and Johns.

It's a similar story in Toronto, where the department had already beefed up the number of officers in the human trafficking division last year. Nunzio says investigators have charged individual pimps under the new advertising laws, but otherwise, so far, not much has changed. They are in talks with the Crown about going after websites and newspapers that host sex ads, but "there's no plan in place as of yet" to lay charges, Nunzio says.

In Edmonton, investigators have employed the new advertising laws, but otherwise haven't altered their sex work strategy, says department spokesman Scott Pattison.

In Victoria, too, the "new laws have not changed how we deal with street workers in our jurisdiction," says Const. Mike Russell. "Our approach is one of working collaboratively with outreach agencies and the workers themselves to ensure their safety."

That attitude reflects a sea change in policing in some Canadian cities that predates the Bill C-36 era, says Cecilia Benoit, a professor of Sociology at the University of Victoria and one of the lead researchers behind *Understanding Sex Work*, perhaps the most comprehensive academic study on the topic ever undertaken in Canada. Benoit worries that, with the new laws, some of that progress — the bridge-building between sex workers and police — might be lost.

Even if it remains static, though, if things stay largely the same under the new laws as they were under the old, there are risks. The Bedford decision did not emerge from a vacuum. The challenge to Canada's old prostitution laws came for several reasons, but the most important one was this: sex trade workers in Canada have, for decades, been subject to horrific levels of violence.



ANOEK DE GROOT/AFP/Getty Images/Files



Emily Symons, representing a group called Power, leave Osgoode Hall in Toronto, Ontario, Thursday, June 16, 2011. Tyler Anderson/National Post

In one study Benoit conducted, 24% of sex trade workers indicated they had been attacked on the job; 19% said someone had forced or attempted to force them into sex. Robert Pickton, the most prolific serial killer in Canadian history, murdered sex trade workers with impunity for years in B.C. before the police deigned to take notice.

And while many advocates believe policing of the sex trade has improved dramatically in the years since Pickton operated, sex trade workers are still vulnerable in Canada. Cindy Gladue, an Edmonton escort, bled to death from a vaginal wound after sex with a client in 2011. (The client, Bradley Barton, was acquitted of first-degree murder; the Crown has appealed.) Warren Mann, a client, beat Gail Brown, an escort in Ontario, nearly to death in 2012. He was convicted of attempted murder in her case last week.

Rates of workplace violence for sex work are actually lower than they are for several other professions, including emergency room nursing, as Benoit writes in a recent analysis published by the Canadian Institutes for Health Research on Thursday.

What is clear, though, according to the women who spoke for this article and to organizations that work with sex workers in Canada, is that the new laws, despite their focus on buyers not sellers, aren't making things any safer.

"Sex workers are still being quite endangered," says Brenda Belak, the sex work campaign lawyer at the Pivot Legal Society in Vancouver. "They're still feeling that they have to do things in a covert manner to avoid police contact because their clients want to avoid police contact."

"You can't be as open and upfront as before," agrees Raven. "This new law," adds Nicole, "sucks."

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[Like](#) · [Reply](#) · May 8, 2016 3:25pm**Rick Hartwell** · Works at Corpulence Systems

What about the long term psychological effects of being a sex worker. Even women like the ones in the article who are not "trafficked" must be affected by performing this kind Of work.

Have there been any studies about the long term effects?

[Like](#) · [Reply](#) · 1 · May 10, 2015 6:16am**Elias Sao**

You have a good point. I really do hope that studies take place. But the problem is that, will there really be enough of these workers that are willing to take part in such tests and studies? Shame and stigma are only two of the critical problems that stand on your point. Any thoughts?

[Like](#) · [Reply](#) · Oct 1, 2015 11:49am**Louis Héon** · HEC MontréalElias Sao Many studies have shown that there is a very strong correlation between prostitution and past trauma, or sexual abuse. People suffering from trauma often reenact the abuse in order to try and resolve the issue, to take control and make it right. The argument of the "oldest profession" falls apart when we consider that for most of recorded history, one of the oldest professions is being a soldier. Yet, no sane person would argue in favour of legalizing war. Legalization of prostitution merely displaces prostitution from countries where it is illegal to countries where it is legal. It ... [See More](#)[Like](#) · [Reply](#) · 1 · Oct 12, 2015 4:05pm · Edited**Victor Mihayloff**

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u