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Rising to the Challenge: Addressing the Concerns of People Working in the Sex Industry

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En septembre 2010, trois dispositions du *Code criminel* relatives à la prostitution ont été jugées inconstitutionnelles parce qu'elles contribuent à mettre en danger les personnes qui travaillent dans l'industrie du sexe (PTIS). En utilisant des données provenant d'études effectuées auprès de PTIS et d'informateurs clés dans plusieurs villes canadiennes, nous examinons trois domaines liés à la santé et à la sécurité des travailleuses : la santé et la sécurité au travail, les perceptions et les comportements à l'égard des travailleuses et l'accès aux services essentiels. Pour traiter ces questions, nous devons aller au-delà de la décriminalisation. Nous concluons que l'instauration d'un cadre de droits des travailleurs et de réduction de préjudices améliorerait grandement notre capacité d'aborder les problèmes liés aux droits et au bien-être physique, social et mental des PTIS.

In September 2010, three *Canadian Criminal Code* provisions related to prostitution were ruled unconstitutional because they increase the risk of harm to people working in the sex industry (PWSI). Using data from studies with PWSI and key informants conducted in several Canadian cities, we

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examine three domains related to worker health and safety: occupational health and safety, perceptions of and behaviors toward workers, and access to essential services. Addressing these issues necessitates moving beyond decriminalization. We conclude that using a harm reduction/labor rights framework would enhance our ability to address issues related to the physical, social, and mental well-being as well as rights of PWSI.

IN 2007, SEX WORKERS IN CANADA launched legal challenges in the Superior Courts of Ontario and British Columbia (BC) arguing that sections of the *Canadian Criminal Code* (*CCC* 1985) violate their Charter rights by increasing the risks they face both on and off the job and exacerbating their marginalization (*Bedford, Lebovitch and Scott v. Attorney General of Canada*, Court File No. 07-CV-329807PD1 and *Downtown Eastside Sex Workers United Against Violence Society and Sheryl Kiselbach v. Attorney General (Canada)*, 2008 BCSC 1726.). Three years later the Superior Court of Ontario upheld the plaintiffs' claim in Bedford and colleagues and ruled that the laws prohibiting communicating for the purpose of prostitution, running a bawdy house, and living on the avails of prostitution were unconstitutional because they substantially increase the risk of harm to people working in the sex industry (PWSI).[1,2] The BC challenge—originally quashed by the Superior Court[3]—is now moving forward. In October 2010, the BC Court of Appeal overturned the original ruling, paving the way for a hearing in the BC Superior Court.

These rulings have brought heightened public attention to factors that endanger the safety and lives of sex workers. They also reinforce the extent to which the health and well-being of PWSI is a complex interaction of legal, political, and social issues. Consequently, any analysis of the health and safety concerns of sex workers must be sophisticated enough to address this complexity as well as the necessity for policy that is multisectorial. The definition of health by the World Health Organization (WHO, 1948) provides this complexity:

> [Health is] a state of complete physical, social and mental well-being, and not merely the absence of disease or infirmity. [. . .] The enjoyment of the highest attainable standard of health [is] a fundamental right of every human being. (P. 100)

Using this definition, and evidence drawn from studies of sex work we have conducted separately and jointly since the early 1990s in Montreal,

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1. The ruling by Judge Susan Himel (September 28, 2010) is available at http://www.canlii.org/en/on/onsc/doc/2010/2010onsc4264/2010onsc4264.pdf.

2. In this paper PWSI refers to adults involved in the exchange of sexual services, or explicitly sexual fantasies, for money, goods, or services. The term sex worker is also used for this group of people.

3. The original Superior Court judgment (December 2008) ruled that Vancouver's Sex Workers United Against Violence, the group plaintiff, and Sheri Kiselbach, a former sex worker, could not launch a challenge because they lacked "standing"—the legal right to bring a court challenge. The Court said that such cases must be brought by individuals currently facing the criminal laws in question. The plaintiffs' argued that active workers are constrained from going to court due to fears of arrest, social censure, and discrimination against themselves and their families, but to no avail.

Ottawa, Toronto, and numerous smaller cities in southwestern Ontario,[4] we examine three domains related to worker health and safety: risks to occupational health and safety (OHS), negative perceptions of and behaviors toward workers, and limited access to essential services. Analyzing our interviews with PWSI and key informants, we identify the risks posed to workers in each of these three domains and how they are exacerbated by the *Criminal Code* provisions. Our analysis also considers what is required beyond decriminalization to improve the overall health and well-being of sex workers. Based on these results, we conclude that placing sex work in a harm reduction/labor rights framework—as has been done in New Zealand (NZ)—will contribute to our ability to address issues related to the physical, social, and mental well-being as well as rights of PWSI.

Although our primary focus is not on the legal framework, the complex interaction between the health and safety of PWSI and the legal status of sex work necessitates a brief overview at the relevant provisions in the *CCC*. The exchange of sex for money does not violate the *CCC*; however, key activities associated with this exchange violate several provisions of the *Code*. Briefly stated, these include: keeping or being found in a common bawdy house (s. 210), providing directions to or transporting someone to a bawdy house (s. 211), procuring or living on the avails of prostitution (s. 212), communication in a public place for the purpose of prostitution (s. 213), and purchasing sexual services from someone under 18 years of age (s. 212(4)). Some forms of sex work are also affected by sections dealing with obscenity (s. 163), engaging in an immoral theatrical performance (s. 167), performing an indecent act in a public place (s. 173), and public nudity (s. 174). Of note is that the terminology within these sections of the *CCC* (e.g., obscenity, sex, public, prostitution) has been variously defined by the Courts, making it difficult to ascertain what precisely is and is not illegal in any particular jurisdiction or at any particular point in time.

METHODS

The combined corpus of our work is grounded in qualitative and mixed methodologies. We have conducted over 450 face-to-face interviews with adult (i.e., ≥ 18 years of age) women, men, and transsexual/transgender (TS/TG) workers[5] who represent a broad range of occupations (street-based prostitution, exotic dancing, escort, and massage). In addition, some 40 key informants were interviewed—including members of police services and community service organizations (e.g., public health units, advocacy, and

4. Findings from these studies are variously reported in Lewis (2006, 2010), Lewis and Maticka-Tyndale (1998, 2000), Lewis et al. (2005a, 2005b), Shaver (1993, 1994, 1996, 2005a, 2005b), and STAR (2004, 2006).

5. All the TS/TG workers in our samples were male-to-female. They present themselves as women and most live full-time as women. They may or may not have had sex reassignment surgery.

support organizations), owners/managers of establishments where PWSI work, and "sexperts"[6] (PWSI with many years of experience working in and with the sex industry)—and relevant policy documents were analyzed (e.g., the *CCC*, municipal regulations and bylaws, social service policies, OHS, and labor codes).

Overcoming sampling bias was a major concern in all of these studies. This is particularly difficult given that the size and boundaries of the population are unknown and its members engage in stigmatized and/or illegal behavior making concerns regarding privacy and confidentiality difficult to resolve. If not adequately addressed, these characteristics can result in both ethical and data-validity challenges (Shaver 2005a). To meet these challenges, rigorous sampling strategies were combined with a participant-centered approach in all of our studies. These included extensive time and observations in diverse public work settings to ensure the full range of population members was identified and collaboration with PWSI to locate more invisible workers.[7] This contributed to our confidence that the conclusions we drew from the research took into account the diversity of experiences and situations relevant to the area of inquiry (Strauss and Corbin 1990).

The analysis for this paper began with an examination of our interviews with key informants. There was universal acknowledgement in these interviews that in order to improve the health, safety, and well-being of workers it is essential to: (i) address OHS issues, (ii) alter the perceptions and behaviors of local residents, general public, police, and service providers toward the sex industry and PWSI, and (iii) diversify the services available to workers. Accounts from our interviews with PWSI were consistent with these observations. The themes emerging from our interviews clearly indicate that we need more than decriminalization in order to ensure the physical, social, and mental well-being of PWSI.

OCCUPATIONAL HEALTH AND SAFETY

Threats to OHS were reported across all forms of sex work. Some PWSI spoke of long-term or permanent disabilities that impaired their income earning capacity and overall well-being. Specific threats and/or the intensity of threats varied by work location and the degree of control PWSI had over their work.

The concerns reported by PWSI who worked in establishments controlled by others, such as strip clubs or massage parlors, included the condition of equipment, facilities, and the establishment itself as well as work demands of management. Conditions of the workplace that affected their health and safety on-the-job included the state of repair of the stage, pole, and platforms used by dancers, of massage tables used by masseuses,

6. We use the term "sexperts" throughout our work in order to differentiate this group of participants from other sex workers who were interviewed.

7. For more detailed information about the methodologies used in each study, see materials listed in note 4.

and, for both, the sanitation facilities, overall cleanliness, adequacy of dressing room space, lighting, and security provisions, such as panic buttons, mirrors, or bouncers, and space for "breaks." Work demands included the length of shifts, number of breaks, appearance and dress requirements, specific work requirements (e.g., encouragement of alcohol consumption while socializing with customers in strip clubs, provision of certain types of "services," or "performances" for customers), and the required demeanor toward customers in response to unwanted and illegal touching, abusive comments, and harassment (Sex Trade Advocacy and Research [STAR] 2004, 2006).

PWSI who worked indoors, independent of a third party, differentiated between the work conditions of in-call (clients come to workers) and out-call (workers go to clients). Both types of workers set their own schedules and determined the services they offered and the clients they saw. Those who worked out-call serviced clients in homes, hotel/motel rooms, and other commercial and private establishments. Their main concerns were safety and security. They could not be sure how many people they would encounter upon arrival, what their intentions were, whether weapons might be present, whether clients were under the influence of drugs or alcohol, if clients would accept the conditions they set (e.g., what services they would and would not provide, for how many people and at what price), or whether there was an easy exit route if required. In contrast, those who worked in-call had an established work location, which they controlled. They were able to ensure appropriate facilities and work conditions, set their own schedules, establish security measures appropriate to their location, and control entry to their work site. Although they did face the possibility of client-associated threats once a client was admitted, none of our research participants reported problems with "guests in their space."

The health and safety concerns reported by street-based workers related to their work location and included both personal safety and the work environment. They raised concerns regarding weather conditions (extreme heat or cold, rain, snow); adequacy of street lights; ease or difficulty of connecting with clients; public interference; verbal and physical abuse from residents, police, and clients; and availability of places to take breaks and store personal possessions. In addition, police "sweeps" that pushed them into areas with high levels of criminal activity, little public visibility and absence of services increased the threats to their health and safety.[8]

Health Canada is mandated with providing "national leadership to enhance healthy living for all working Canadians, develop health policy and advance best practices in the workplace" (Health Canada n.d.). However, legislation and enforcement rest either at the provincial or municipal level. This produces a patchwork of legislation across the country, with much of it

8. For a discussion of the push of PWSI into downtown eastside Vancouver, see Ross (2010).

enforced on a ‘‘complaint’’ basis (i.e., only when someone brings a potential violation to the attention of enforcement officers). Although existing provincial and municipal legislation (i.e., labor codes, OHS legislation, workers’ compensation, supplemental health insurance, and municipal licensing requirements for establishments) collectively have provisions that appear to address most concerns raised by the sex workers we interviewed, this legislation cannot be applied to work that violates the *CCC*. Thus, all in-call work is excluded from legislative regulation, whether conducted independently or under the control of an owner/manager, since it violates s. 210 (the latter also violates s. 212). The responsibilities and liabilities of owner/managers of establishments related to the exchange of sex for money (e.g., strip clubs, massage parlors, escort, and out-call agencies and services), that would be violating s. 210 and s. 212 if they admitted awareness of such an exchange, are also not covered under the legislation.

The impact of the limited applicability of provincial and municipal legislation to sex work is particularly evident where municipalities are licensing certain forms of sex work and the establishments where PWSI work. Some municipalities license massage/body rub providers, exotic dancers, strip clubs, escorts, and/or escort agencies. However, the sex-for-money exchange, as well as any action that violates *CCC* provisions, is explicitly excluded from licensing. Licensing brings an additional layer of surveillance, with official records kept of personal identifying information of workers and business owners and both are subject to inspections and monitoring by by-law enforcement officers to ensure licensing regulations are not violated. To maintain their licenses, and the associated right to conduct business in these municipalities, workers and establishments must be cautious that they are not found in violation of any *CCC* provisions. An example of the implications of this requirement is described in Lewis and Maticka-Tyndale’s (2000) report of their study of the escort industry in Windsor, Ontario:

> [Escort agency owners and staff who provide] information or services to an escort that can be construed as indicating that they are aware of the sale of sexual services (e.g., providing condoms), are subject to charges under the federal statutes. In fact, agency owners have been charged under the procuring statute for discussing expected and optional sexual practices with escorts. (P. 441)

The *CCC* provisions applied in these circumstances are among the ones that were successfully challenged in the Superior Court of Ontario. If Justice Himel’s ruling is upheld,[9] a major impediment to the application of labor and health-related codes, legislation, and policy will be removed.

If sex work is decriminalized, the remaining impediment to applying existing labor and health legislation to the sex industry is that codes and legislation are framed from the perspective of employer–employee relations.

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9. The ruling is being appealed by the Federal Government of Canada. The appeal will likely be heard in the Appeal Court of Ontario some time in 2011.

PWSI, however, most often work independently, even when they work in third-party controlled establishments. For example, exotic dancers typically operate on a freelance basis paying club owners for ‘‘the privilege’’ of working in their clubs. In freelance or independent contract (IC) work, specifics of work schedules and job requirements are left to negotiations between workers and ‘‘employers.’’ This applies to both clients who contract directly for the services of a PWSI and third parties, such as strip club, escort agency, and massage parlor owners. Such negotiations and agreements are outside the direct purview of labor codes or OHS legislation. As ICs, PWSI are also responsible for their own insurance, including workers' compensation or supplementary health insurance. However, obtaining insurance is contingent on working in an industry or occupation that is approved for coverage.

Concerns of workers have often been advanced by unions in contract negotiations with employers and in advocacy with governments to pass legislation ensuring fair work practices, labor standards, health and safety on the job, and compensation for workers who are injured or unemployed. The Canadian Union of Public Employees (CUPE 2005) has taken the position that sex work is work and has explored the possibilities of unionizing sex workers. However, while recognizing the justice in the unionization of PWSI, CUPE was forced to acknowledge many of the same problems encountered in applying the existing labor, health, and safety legislation discussed earlier. These problems have made unionization impossible.

> [Under the current system] there are legal impediments to the unionization of sex workers, and prostitutes in particular. For instance, existing labor laws in Canada do not provide for the unionization of autonomous or contract workers where there is no clearly defined employer/employee relationship. Also, it is unlikely CUPE could get union certification for workers involved in what is essentially an illegal activity . . . . It is only fair that sex workers get the recognition and protection given other workers, including a minimum income, social security, sanitary and healthy workplaces, freedom from discrimination, harassment, violence, and coercion, and the right to union representation (CUPE 2005:4).

Beyond the threats to health, safety, and well-being imposed directly by the environment and conditions of work, the PWSI in our studies also described threats to their person and property—by clients, managers/employers, members of the public, and even at times by police—that constitute violations of the *CCC*. Regardless of venue, PWSI raised concerns about assault, rape, harassment, and robbery. The frequency of reported experiences of various forms of assault or robbery varied by work venue with in-call workers least likely and street-based workers most likely to report these experiences. We note that PWSI who were TS/TG consistently reported harassment and assault that exceeded that of other PWSI. Although such violations of the safety of workers contravene several provisions of the

CCC,[10] few PWSI in our studies reported these incidents to police because they felt their complaints ''would not be taken seriously'' or that they would be further victimized by the police.

Based on our research it seems clear that if *CCC* provisions related to sex work remain standing, PWSI—regardless of where and how they conduct their work—are on their own with respect to ensuring their health and safety on the job. They are denied rights to protection under legislation designed to enhance the health, safety, and well-being of workers and under *CCC* provisions designed to protect all persons from harm imposed by others. The workers we interviewed did take precautions to protect themselves, but almost all the precautions they took violated *CCC* provisions (Lewis et al. 2005a). Together, the framing of labor and OHS legislation and the criminalization of ways of conducting sex work in a safer and healthier manner severely impede the ability of PWSI to access a safe and healthy work environment and deny them their right to health. Even when victimized by others, sex workers are not afforded the rights of protection and redress that any other person in Canada can expect. Clearly, as Justice Himel articulated in her Ontario Superior Court ruling, decriminalization is a necessary step toward removing barriers to the right to health of PWSI. But full inclusion of independent workers in legislation related to labor standards and OHS, and recognition of their rights to protection and redress for crimes against their person or property require more than the legal changes implemented in the course of decriminalization.

PERCEPTIONS AND BEHAVIORS

Recent literature demonstrates the ongoing stigmatization and marginalization of the sex industry and PWSI (Clamen and Lopes 2003; Jeffrey and MacDonald 2006; Lopes 2005). This has been documented even in settings where sex work has been decriminalized (Abel and Fitzgerald 2010; Jeffrey and Sullivan 2009). Stigmatization is often grounded in misperceptions of sex work that lead to mistreatment and denial of human rights (Lewis et al. 2005a; Shaver 2005b). This is evidenced both in the orientation of programs designed to address problems in the industry and in individual behaviors toward sex workers (e.g., treatment of PWSI by police, public, and clients).

Problems related to street-based prostitution have been addressed through programs, such as Projet-pilote,[11] John's School and Cyclope,[12]

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10. Criminal harassment (s. 264); uttering threats (s. 264.1); assault (s. 265); assault with a weapon or causing bodily harm (s. 267); aggravated assault (s. 268); sexual assault (s. 271); sexual assault with a weapon; threats to a third party or causing bodily harm (s. 272); aggravated sexual assault (s. 273); theft (s. 322(1)); robbery (s. 343); extortion (s. 346(1)); intimidation (s. 423(1)).

11. An innovative plan involving a multidisciplinary team of nurses, out-reach workers, social workers, psychologists, and police tasked with using nonlegal measures to address the problems associated with street-based prostitution.

12. Diversion programs for clients (Fischer et al. 2002).

Streetlight and Temps d'arrêt,[13] and community/targeted policing. These projects were considered largely unsuccessful by our study participants who identified a variety of reasons for their failure. Paramount on their lists was conflicting perceptions of ''the problem'' and therefore ''the solution.'' Many of our participants noted that the definition of ''the problem'' was based on residents' concerns, excluding PWSI who lived and worked in the same neighborhood. As a result, a common program goal was to rid the streets of prostitution entirely. Other participants argued that the initiatives seemed to be designed primarily to ensure the security of the public, while ignoring security concerns of sex workers. One informant in particular noted that the residents have a strong lobby and push police to ''reconforter les dits citoyens'' (KI-1 Service Provider).[14]

Key informants also argued that the projects were grounded in a simplistic understanding of the sex industry and of the people working in it. The industry was seen as a danger to residents and PWSI were perceived to be a homogenous group ''in need of saving,'' rather than diverse individuals with dissimilar needs. It was noted that programs, such as Temps d'arrêt and Streetlight, privilege those wanting to exit the industry (KI-2 ''Sexpert''). As one of our key informants noted, ''[. . .] ils sont tous malades, on va les sauver. Je caricature un peu mais c'est pas loin de ça'' (KI-3 City Official). According to this same informant, even the name of the project served to reinforce the negative attitudes and perceptions of PWSI because it implied that most wanted to exit. Others commented on the limited availability of services for PWSI who simply wanted to get away from their pimp or take advantage of services geared toward people in the industry:

> I don't see any solid agencies out there. I see Streetlight [. . .] and it's an exit program, so we're going to get a limited number, and they're forced to go because of the court. But I take a look at the other agencies in this city; I don't see anything solid that's directed towards sex trade workers. (KI-4 Police Officer, Sex Crimes)

Informants also shared concerns regarding the negative and unexpected outcomes of several of these programs. For example, Cyclope and John School increased working hours for PWSI because they resulted in a decrease in clients. Police responses to residents' complaints through crackdowns on strolls and creation of zones of tolerance[15] dispersed and relocated workers, increasing their vulnerability and limiting their access to resources.

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13. Diversion programs/exiting assistance for street workers (Lewis 2010).

14. When citing key informants (KI) and sex workers (SW) for this paper we draw on several of our studies. For this paper, however, they are simply identified by the role they occupied (e.g., city official, police officer, ''sexpert,'' etc.) and numbered consecutively as they appear. Respondents cited more than once retain the same identification number assigned when first quoted.

15. Zones of tolerance are areas where police do not engage in active enforcement. They are typically located in industrial areas where commercial sex work will not disturb residents or businesses. These regions often lack public transportation, restaurants, other amenities, and opportunities for information sharing (Lewis et al. 2005a).

The negative perceptions and behaviors behind these failures reflect moral discourses that hamper good policy development (Sanders 2005; Shaver 1994, 1996; Weitzer 2006, 2010) and—as our informants reported—justify discrimination and marginalization of sex workers. ‘‘Tout ca, ca navigue ensemble’’ (KI-1 Service Provider). These further impede opportunities for PWSI to attain a high standard of health and well-being and relegate them to the status of second class citizens. ‘‘Donc, il y a une double et une triple victimisation là qui s'installe’’ (KI-3 City Official). The feeling of multiple-victimization was reflected in interviews with both workers and key informants. Some complained that the police operated as if they were the ‘‘moral brigade/brigade de la moralité.’’ This was illustrated in police giving PWSI numerous tickets for minor offenses, blaming them for injuries to clients resulting from self-defense against assault, and otherwise harassing workers. This inclination was also evident in interviews with police. For example, some justified not processing complaints of assault, rape, or robbery from PWSI as ultimately ‘‘benefitting the workers.’’ They felt that by giving PWSI a ‘‘hard time’’ and denying them the protection and redress provided to nonsex working persons, they were ‘‘helping’’ them to see how dangerous their work was, thereby ‘‘encouraging’’ them to get out of the business: ‘‘Until these women hit rock bottom and experience hard times first hand they won't get out. Making it easy for them isn't helping. It just gets them in the business’’ (KI-5 Police Officer). From the perspective of the workers, this was experienced as being treated ‘‘like garbage’’ or ‘‘the worst piece of shit on earth.’’

PWSI reported on how the negative attitudes and actions of some members of both the police and the public (including clients) violated their rights. This was particularly true for street-based workers who reported persistent harassment by the public. Bottles, food, and insults were thrown from passing cars and people living in the neighborhoods where they worked ‘‘threatened’’ them and tried to ‘‘chase’’ them from the area. Male and TS/TG workers reported experiences of ‘‘gay bashing’’ while on the job. TS/TG workers were also targeted for violent attacks because of the way they looked and where they worked. Experiences of scrutiny, attack, and sexual harassment expanded beyond the work environment to the private lives of PWSI. Landlords were reported to expect workers would ‘‘fuck them if [they] wanted to keep [their] place’’ (SW-2 Female Escort), and those who also held jobs outside the sex industry had to endure sexual advances from employers who knew of their involvement in the industry. TS/TG workers had to contend daily with harassment, and potential violence resulting from reactions to their TS/TG status. One TS/TG person reported being intentionally hit ‘‘by a 2×4 extended from a window of a [passing] car’’ (SW-1 TS/TG Street-based Worker). Others spoke of being verbally and physically ‘‘harassed’’ by male pedestrians (Lewis et al. 2005b:158).

Off-street workers were less likely to be exposed to the negative attitudes and behaviors of the police and public because they were less visible. Nevertheless, they shared many concerns with street-based workers including

"being outed" to family and friends who did not know of their work. They feared that health-care providers would reject them if they spoke of their job, that they could lose their children if the child welfare authorities learned of their involvement in the sex industry, that they could lose their savings through "proceeds of crime legislation" (Lewis et al. 2005a), and that the laws would impede their ability to travel. TS/TG workers were more likely to report discrimination in accessing housing. This had implications for their ability to receive government disability pensions, for which they needed an address. Client violation of worker rights were evidenced in all lines of sex work represented in our studies. Dancers spoke of clients who refused to pay for a dance without additional services (e.g., a blow job) and who "poked" and "prodded" dancers during table dances and while they walked around the club. More generally, women and TS/TG workers also reported that there was always a potential risk of assault by clients.

Together, negative attitudes about the sex industry and harmful behaviors toward PWSI severely impeded their ability to access safe and healthy work environments and denied their right to good health and well-being. As argued above, decriminalization is a first step, but the attitudes and behaviors identified here will not change, and the programs designed for PWSI are unlikely to succeed, without additional efforts being made. Success depends upon the recognition and acceptance of PWSI as full citizens and sex work involving consenting adults as a legitimate revenue generating activity. This second step involves setting aside our individual moral positions and values when planning appropriate and effective policy.

ESSENTIAL SERVICES

Changes in attitudes and behaviors grounded in misconceptions about sex work are also necessary in order to ensure that PWSI have access to essential services. As noted above, such misconceptions result in marginalization and stigmatization and in the perception of PWSI as second class citizens. Key informants noted that advocacy and education "regarding the realities of workers lives as opposed to the stereotypes" (KI-6 Community Centre Worker) are necessary to challenge these misconceptions and provide PWSI with the same rights and privileges as other Canadians. This includes equal access to services that enhance social, mental, and physical well-being.

Resources are a big impediment for any and all service provision. In key informant interviews we heard repeatedly that the major challenge community-based programs face is funding, especially sex work specific funding. As a public health worker noted regarding an attempt to get funding for health-based outreach into strip clubs, "I was there when the United Way said to us, you meet the criteria . . . but you don't really think that the United Way is going to want to be known for funding dancers" (KI-7 Public Health Worker). Funding limits what services can be provided and to whom. As a result community agencies have a "seriously limited ability to respond

to requests for services'' (KI-7 Public Health Worker). Although we collected information on a number of agencies that provided services to sex workers, they were not sex work specific. In part, this is due to difficulties obtaining funding for programs targeting this community unless it is for services related to HIV (condom distribution, HIV/STI testing), drugs (needle exchange, materials to clean works, crack kit distribution), or exiting the industry (court mandated programs, such as Streetlight and Temps d'arrêt).

From the perspective of PWSI and key informants, even well funded sex work specific programs are not without their problems. One of the main issues is tied to access to and visibility of PWSI when accessing services. Both groups reported that street patrol officers use these programs as a way to target workers. Police sometimes ''stake out'' the facilities—particularly harm reduction programs that provide condoms and needle exchanges—and when workers exit, they are ''harassed,'' ''frisked for drugs,'' and ''pulled into'' police cars for background checks and ''questioning.'' As a Toronto mobile services public health worker reported: ''[despite] the upper echelons of the police . . . totally supporting the program, it's not always filtering down to the cop on the street'' (KI-8 Counselor/Educator). Municipal politicians and neighborhood groups also attempt to interfere with the projects and their clients. ''A lot of them come together and try various strategies to get rid of programs . . . perceived to be supporting or encouraging drug use and prostitution'' (KI-8 Counselor/Educator). Such actions on the part of the police, municipal officials, and neighborhood groups serve to deter people from accessing programs designed to be ''accessible and non-judgmental'' harm-reduction services.

Other concerns relate to the limited availability and narrow orientation of some projects; this is particularly the case for ''exit programs.'' Although providing such services to workers wishing to exit the industry can be a valuable resource for the sex work community, in their current form they are of limited use. When projects, such as Streetlight and Temps d'arrêt, exist at all,[16] they are set up as court mandated. ''Most participants in such programs are compelled to take part in them'' in order to avoid criminal conviction and imprisonment (Lewis 2010:290–91). This erodes the due process rights of participants, due to the admission of guilt implicit in choosing to participate (Fischer et al. 2002), and participants are a captive audience that is less likely to be interested in making use of the services provided. As a police detective noted, some workers ''are just taking that program because the court told them too . . . then they're going back out there'' (KI-4 Police Officer, Sex Crimes). These programs also tend to lack residential facilities, which can be an essential ingredient for workers wanting help to exit the industry, but who need a safe place to live during the transition.

16. Such diversion programs are much more readily available to clients of PWSI (e.g., John School, Cyclope) than for workers. For a detailed discussion of this see Lewis (2010).

Key informants identified a variety of service needs for PWSI but the two primary ones were ‘‘safe and appropriate’’ short- and long-term housing and general health care. Although some housing services were available in the areas we studied, none were sex worker specific and only one was sensitive to the work schedules of PWSI. Most housing facilities and shelters have curfews that require those who want a bed to be there by a particular time and to stay in the facility once space is assigned. The manager of the only housing program that accommodated PWSI schedules explained their philosophy. ‘‘Women have the right in the economy to make choices, and it's work, right? . . . so we frame it as such’’ (KI-9 Manager, Housing Program). In this residence their policy is to make accommodations for women who work overnight shifts, regardless of the job they have.

Reports regarding the lack of ‘‘easily accessible,’’ ‘‘sensitive,’’ and ‘‘nonjudgmental’’ health services were echoed by both key informants and PWSI. According to a nurse for a local community facility ‘‘it's important to be able to access rounded health care—not just sexual health—pap smears, breast exams, mammograms, flu shots, booking patients for specialty appointments, etc.’’ (KI-10 Nurse). Health services geared toward sex workers, however, focus mostly on sexual health. We only learned of a few exceptions, such as a street-outreach service in Toronto (providing services to all people on the streets), that provide ‘‘a foot care clinic and other things that workers complain are hard to access’’ (KI-11 Street Outreach Worker). In addition to accessing general health services, is the issue of finding services that are free of ‘‘bias and judgment.’’ In order to receive the highest attainable health services, health-care providers need to know all facets of a patient's life, including their work life. However, a number of the PWSI we interviewed reported that they prefer to keep their work ‘‘a secret’’ from health providers to avoid ‘‘being judged.’’ A combination of personal experiences and stories from colleagues and friends lead them to expect that most health providers are unprepared to accept the work they do. In order to avoid ‘‘discriminatory attitudes’’ they remain silent about their job.

One community-based facility in Toronto offers a variety of services to women on the street and provides a template for needed services. This facility ‘‘welcomes all women’’ (including TS/TG women), opens its doors at 4:30 AM 365 days a year and always has a nurse on duty. Two doctors—a man and a woman—are on site several afternoons a week to give clients a choice. The health-care staff provides the services of ‘‘a general family medicine’’ practice and are ‘‘skilled in addiction and mental health.’’ They also make referrals to other health-care providers and offer to accompany patients to these appointments. The staff is welcoming and provides the services needed in a manner that is respectful of all patients. Evidence of the success of this program is the demand for services. Between the two part-time family physicians there are over 1,200 patients. The nurse sees an average of 40 patients a day and, in the afternoon clinics, the physicians see about 30 patients each.

Access to safe and appropriate housing and health services are of particular concern for TS/TG workers. In terms of health care there was a general feeling among key informants and workers that doctors are ''not sensitive'' to the unique health issues of TS/TG people. When it comes to HIV and drug use, such concerns are particularly pronounced. In interviews we were told of doctors ''forcing HIV+TS/TG workers off their hormones in order to get the cocktail [a combination of drugs used to treat HIV]'' (KI-6 Community Centre Worker), rather than working with them to deal with ''the unique challenges of taking both hormones and the cocktail.'' Such actions were taken as evidence of the lack of understanding of the realities of TS/TG people's lives, as most HIV+TS/TG individuals faced with the choice ''would choose hormones over the cocktail'' (KI-6 Community Centre Worker). With regard to drug use issues, the coordinator of a program for TS/TG people at a Toronto community center talked about how doctors assume sex workers, particularly TS/TG workers, have substance abuse problems. They then assume that ''TS/TG workers can't get injectable hormones because they are drug users and will use the needle to inject other drugs or will sell the hormones on the black market'' (KI-6 Community Centre Worker).

In terms of housing, ''a lack of shelter for TS/TG individuals remains a persistent problem'' (STAR 2006:28), especially because most women's residential facilities will not provide them with accommodations. This means that these individuals are either forced to seek residence in men's facilities, ''where they risk verbal, physical and sexual harassment or sleep on the streets with its associated hazards'' (STAR 2006:28). A frontline crisis worker talked about how having a hostel or shelter just for TS/TG people—similar to those available for men, women, youth, and the elderly—would provide ''stability'' and a sense of ''permanence'' that is not afforded TS/TG people in Toronto (KI-12 Crisis Worker/Addiction Counselor). Such housing concerns also pertain to detention and treatment facilities. Although the police interviewed for this project demonstrated knowledge of TS/TG issues, this knowledge generally did not trickle down to the street officers or criminal justice system personnel. Interviewees spoke of the impact of being placed in gender-inappropriate facilities. They reported how TS/TG workers who had been taken to such facilities were ''mixed up,'' ''traumatized,'' and ''angry'' when they were released. Some were in withdrawal from prescribed medical treatments ''because [they] didn't give them their hormones when they were in jail'' (KI-12 Crisis Worker/Addiction Counselor). The same applies to substance treatment facilities because ''there's no treatment centre for addiction [with space for TS/TG women]'' (KI-10 Nurse). A nurse in a community agency reported a recent case where one of the TS/TG women for whom she provided health services had to ''do the boy thing for three months''—that is, dress like a man and enroll in a men's program if she wanted to be accepted into a residential drug treatment program (KI-12 Crisis Worker/Addiction Counselor).

Together, the lack of resources, the limited availability and narrow orientation of some programs, and the erosion of the due process rights of participants impede the ability of PWSI to achieve a state of complete physical, social, and mental well-being. As recommended by several of our key informants, changes to these shortcomings require community-based projects and the exposure of service providers to education programs grounded in a more complex understanding of the sex industry and the diversity of PWSI.

CONCLUSION

Using data from our studies of the sex industry in Canada, we identified several of the key issues that surfaced regarding the changes needed improve the overall health and well-being of Canadian sex workers. Adopting the WHO's overarching definition of health raised our awareness of how the fundamental dimensions of health—physical, social, and mental—connect to each other and to the work individuals perform. It also drew our attention to what is required to improve the overall health and well-being of PWSI. Using this frame demonstrated that moving to a decriminalization model leaves many critical issues unaddressed, especially ones tied to OHS, attitudes and behaviors, and services. Shifting toward a harm reduction/labor rights framework (Bindman and Doezema 1997; Lopes 2005:11) facilitates our ability to address these issues because it already recognizes and reinforces the rights of PWSI to physical, social, and mental well-being as well as sexual rights. The effectiveness of such a shift was demonstrated in NZ where it became clear that lobbying for harm minimization and human rights enabled many people with a strong antipathy for sex work to refocus their thinking in support of the Prostitution Reform Act (Barnett et al. 2010).

The key informants, ''sexperts,'' and sex workers we interviewed not only highlighted the challenges tied to health, safety, and well-being of PWSI, they also provided insights into potential ways to address these challenges. These insights echo those of NZ workers and the policy change initiated by the NZ government. Since passage of the Prostitution Reform Bill in 2003, NZ's sex industry operates under health and safety regulations outlined in ''A guide to occupational health and safety in the New Zealand sex industry'' (Occupational Safety and Health Services 2004). Developed in consultation with sex workers' rights organizations, self-employed sex workers and owners/operators, the Ministry of Health, police, and other government organizations, it takes into account the concerns of all these stakeholders as well as the way sex work is conducted.

All the issues raised by PWSI in our research—in all types of sex work—are covered in the Guide and all parties to sex work carry responsibilities and rights related to health, safety, and well-being (i.e., whether employers, employees, employee organizations, sex-employed persons, or persons in control of the work place). The Guide works with a consultation and

joint-responsibility model where ''an employer, principal,[17] or other person who controls the place of work [is directed] to think constructively, to consult with employees, and to adopt 'best practice' approaches to health and safety issues in the workplace'' (OSHS 2004:18). By including all parties to the sex exchange it avoids the pitfalls of using an employer–employee model and by addressing *practices* as well as *processes* for establishing practices, it has the possibility of remaining relevant to changes in the industry. Together with NZ's legislative changes, the Guide provides a template for ensuring that the rights of PWSI to health and safety are recognized and acted upon.

Research conducted in NZ both before and after the Prostitution Reform Bill (2003) came into effect provides evidence to support using OHS and labor legislation to deal with some of the major challenges identified by our research participants (Abel and Fitzgerald 2010; Abel et al. 2010). It can be seen as a model for reducing harm, enhancing health and well-being, and respecting the rights of the individual. In line with NZ policy, Canadian OHS legislation must be made more inclusive, especially in terms of the recognition of the rights of independent contractors. Such modifications would benefit not only PWSI, but all IC workers. Current changes in economies and labor markets are resulting in increasing numbers of workers taking up IC work (Lewis 2006). Under existing Canadian legislation, they have no defined rights, benefits, or protections. As we have seen with PWSI, OHS legislation and labor codes need to be modified to cover the greater diversity of workers in the labor force.

In addition to reworking OHS legislation, more attention needs to be paid to changing the way PWSI are perceived and treated and the types of services that are available to meet their needs. Our informants recommended, inline with the model used in NZ, that these changes be made with all stakeholders at the table and with a focus on harm reduction and meeting the basic needs of PWSI. When this does not occur, when some parties are absent, project failure can be the result (e.g., Projet-pilote where residents were not represented during program planning). Once at the table, it is essential that all parties are ''respectful and nonjudgmental,'' ''responsive to the needs'' of all concerned, and work toward consensus on goals and objectives.

In the projects examined for this study it was often unclear whether the initiatives were designed to protect residents or both residents and PWSI and whether the program's orientation was that of sex work as exploitation, or sex work as work. What is apparent is that finely crafted definitions of terms such as *citizen* (residents together with PWSI) and *work* (including consensual sexual service work between consenting adults) are an important first step.

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17. According to the OSHS (2004), a principal is ''a person who engages another person (other than as an employee) to do any work for gain or reward . . . . This includes any operator of a business of prostitution who engages sex workers as 'independent contractors.' In some situations it may also include a client . . . who engages sex workers to provide services in a place other than a brothel—such as in a hotel room, vehicle or home'' (p. 26).

Our research (and the NZ experience) suggests that police and victim support are among the services that would benefit from such a multistakeholder approach to planning. Education is an essential strategy to developing a more complex understanding of sex work and PWSI (including an appreciation that both the industry and the individuals involved with it are widely diverse) and to facilitating communication among all stakeholders.

The NZ policy can be heralded as a model for harm reduction oriented policy. However, it is important to recognize that basic differences between NZ and Canada, such as population size and jurisdictional powers, result in implementation challenges. In NZ policies are enacted at two levels, federal and municipal. Canada has an additional level of government—provincial/territorial—and it is this level that is responsible for health and OHS legislation. As a result, although there are lessons we can learn from NZ (e.g., using OHS codes and guides to regulate the sex industry, the importance of bringing all parties to the table), there are others we will have to work out ourselves. Given this division of responsibilities, it will be imperative, following the federal decriminalization of sex work, to ensure that policies developed and modified at the provincial/territorial and municipal levels do not maintain or enhance existing levels of risks and harm faced by PWSI or create differential justice across Canada.

References

Abel, G. and L. Fitzgerald. 2010. ‘‘Decriminalisation and Stigma.’’ Pp. 239–58 in *Taking the Crime Out of Sex Work: New Zealand Sex Workers' Fight for Decriminalisation*, edited by G. Abel, L. Fitzgerald, C. Healy with A. Taylor. Bristol: The Policy Press.

Abel, G., L. Fitzgerald, C. Healy and A. Taylor. 2010. ‘‘Part Two: Implementation and Impact of the 2003 Prostitution Reform Act: The First Five Years.’’ Pp. 105–264 in *Taking the Crime Out of Sex Work: New Zealand Sex Workers' Fight for Decriminalisation*, edited by G. Abel, L. Fitzgerald, C. Healy with A. Taylor. Bristol: The Policy Press.

Barnett, T., C. Healy, C. Bennachie, A. Reed and C. Bennachie. 2010. ‘‘Lobbying for Decriminalisation.’’ Pp. 57–73 in *Taking the Crime Out of Sex Work: New Zealand Sex Workers' Fight for Decriminalisation*, edited by G. Abel, L. Fitzgerald, C. Healy with A. Taylor. Bristol: The Policy Press.

Bindman, J. and J. Doezema. 1997. *Redefining Prostitution as Sex Work on the International Agenda*. London, UK: Anti Slavery International and Network of Sex Work Projects.

Canadian Union of Public Employees (CUPE). 2005. ‘‘Sex Work: Why It's a Union Issue.’’ *CUPE*, 1–5. Retrieved August 21, 2009 (http://cupe.ca/updir/BackgroundPaper-SexWorkEng.doc).

Clamen, J. and A. Lopes. 2003. ‘‘Labour Organizing in the Sex Industry: The Way Forward? The IUSW Experience.’’ *Research for Sex Work* 6:29–30.

Criminal Code, R.S.C. 1985, c. C-46.

Fischer, B., S. Wortley, C. Webster and K. Marritt. 2002. ‘‘The Socio-Legal Dynamics and Implications of Diversion: The Case Study of the Toronto ‘John School’ for Prostitution Offenders.’’ *Criminal Justice* 2(4):385–410.

Health Canada. n.d. ‘‘Environmental and Workplace Health.’’ Retrieved May 9, 2010 (http://www.hc-sc.gc.ca/ewh-semt/occup-travail/index-eng.php).

Jeffrey, L.A. and G. MacDonald. 2006. *Work, Stigma, and Resistance: Sex Workers in the Maritimes Talk Back*. Vancouver: UBC Press.

Jeffrey, L.A. and B. Sullivan. 2009. ‘‘Canadian Sex Work Policy for the 21st Century: Enhancing Rights and Safety, Lessons from Australia.’’ *Canadian Political Science Review* 3(1):57–76.

Lewis, J. 2006. ‘‘‘I’ll Scratch Your Back If You Scratch Mine’: The Role of Reciprocity Power and Autonomy in the Strip Club.’’ *Canadian Review of Sociology and Anthropology* 43(3):275–89.

Lewis, J. 2010. ‘‘Shifting the Focus: Restorative Justice and Sex Work.’’ *Canadian Journal of Criminology and Criminal Justice* 52(3):285–301.

Lewis, J. and E. Maticka-Tyndale. 1998. ‘‘Erotic/Exotic Dancing: HIV Related Risk Factors.’’ Report to Health Canada. Retrieved August 22, 2009 (http://www.uwindsor.ca/star).

Lewis, J. and E. Maticka-Tyndale. 2000. ‘‘Licensing Sex Work: Public Policy and Women’s Lives.’’ *Canadian Public Policy* 26(4):437–49.

Lewis, J., E. Maticka-Tyndale, F.M. Shaver and K. Gillies. 2005a. ‘‘Health, Security and Sex Work Policy.’’ Invited presentation to the House of Commons Subcommittee on Solicitation Laws (SSLR), Ottawa, Canada. Retrieved August 22, 2009 (http://www.uwindsor.ca/STAR).

Lewis, J., E. Maticka-Tyndale, F.M. Shaver and H. Schramm. 2005b. ‘‘Managing Risk and Safety on the Job: The Experiences of Canadian Sex Workers.’’ *Journal of Psychology and Human Sexuality, Special Issue* 17(1/2):147–67.

Lopes, A. 2005. ‘‘Sex Workers of the World Unite!.’’ *International Union Rights* 12(4):10–11.

Occupational Safety and Health Service (OSHS). 2004. *A Guide to Occupational Health and Safety in the New Zealand Sex Industry*. New Zealand: Occupational Safety and Health Service, Department of Labour. Retrieved October 10, 2009 (http://www.osh.dol.govt.nz).

Ross, B. 2010. ‘‘Sex and (Evacuation from) the City: The Moral and Legal Regulation of Sex Workers in Vancouver’s West End, 1975–1985.’’ *Sexualities* 13:197–218.

Sanders, T. 2005. ‘‘Blinded by Morality? Prostitution Policy in the UK.’’ *Capital and Class* 29(2):9–15.

Sex Trade Advocacy and Research (STAR). 2004. *Exotic Dancing in Ontario: Health and Safety*. Windsor, ON: STAR. Retrieved March 10, 2009 (http://www.uwindsor.ca/star).

Sex Trade Advocacy and Research (STAR). 2006. *Safety, Security and the Well-Being of Sex Workers: A Report Submitted to the House of Commons Subcommittee on Solicitation Laws (SSLR)*. Windsor, ON: STAR. Retrieved March 10, 2009 (http://www.uwindsor.ca/star).

Shaver, F.M. 1993. ‘‘Prostitution: A Female Crime.’’ Pp. 153–73 in *In Conflict with the Law: Women and the Canadian Justice System*, edited by E. Adelberg and C. Currie. Vancouver: Press Gang Publishers.

Shaver, F.M. 1994. ‘‘The Regulation of Prostitution: Avoiding the Morality Traps.’’ *Canadian Journal of Law and Society* 9(1):123–45.

Shaver, F.M. 1996. ‘‘The Regulation of Prostitution: Setting the Morality Trap.’’ Pp. 204–26 in *Social Control in Canada*, edited by B. Schissel and L. Mahood. Oxford: Oxford University Press.

Shaver, F.M. 2005a. ‘‘Sex Work Research: Methodological and Ethical Challenges.’’ *Journal of Interpersonal Violence* 20(3):296–319.

Shaver, F.M. 2005b. ‘‘Sex Work Policy: An Integrated Approach.’’ Invited presentation to the House of Commons Subcommittee on Solicitation Laws (SSLR), February 7, Ottawa Canada.

Strauss, A. and J. Corbin. 1990. *Basics of Qualitative Research: Grounded Theory Procedures and Techniques*. Newbury Park: Sage Publications.

Weitzer, R. 2006. ‘‘Moral Crusade Against Prostitution.’’ *Society* March/April: 33–38.

Weitzer, R. 2010. ‘‘The Mythology of Prostitution: Advocacy Research and Public Policy.’’ *Sex Research. Social Policy* 7:15–29.

World Health Organization (WHO). 1948. Preamble to the *Constitution of the World Health Organization* as adopted by the International Health Conference, New York, June 19–22, 1946; signed on July 22, 1946 by the representatives of 61 States (Official Records of the World Health Organization, no. 2, p. 100) and entered into force on April 7, 1948.

Court Cases Cited

Bedford, Lebovitch and Scott v. Attorney General of Canada, Court File No. 07-CV-329807PD1.

Downtown Eastside Sex Workers United Against Violence Society and Sheryl Kiselbach v. Attorney General (Canada), 2008, BCSC 1726.